

THE  
ISLE OF SKYE

BY

ALEXANDER MACKENZIE F.S.A. SCOT.



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THE  
ISLE OF SKYE  
IN 1882—1883;

ILLUSTRATED BY A FULL REPORT OF THE TRIALS OF  
THE BRAES AND GLENDALE CROFTERS, AT  
INVERNESS AND EDINBURGH;

AND AN  
INTRODUCTORY CHAPTER.

BY

ALEXANDER MACKENZIE, F.S.A., SCOT.,

EDITOR OF THE *Celtic Magazine*; AUTHOR OF *The History of the Highland Clearances*; *The History of the Mackenzies*; *The History of the Macdonalds and Lords of the Isles*; *The Macdonalds of Glengarry*; *The Macdonalds of Clanranald*; *The History of the Mathesons*; *The Prophecies of the Brahan Seer*; *The Historical Tales and Legends of the Highlands, &c.*

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ALSO A FULL REPORT  
OF THE  
TRIAL OF PATRICK SELLAR.

INVERNESS: A. & W. MACKENZIE.

1883.



ABERDEEN UNIVERSITY PRESS.



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TO

MR. KENNETH MACDONALD, F.S.A., Scot.,

TOWN-CLERK OF INVERNESS,

A GENUINE FRIEND, AND AN ABLE ADVOCATE OF

THE RIGHTS OF THE HIGHLAND PEOPLE,

BY HIS FRIEND,

THE AUTHOR.

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## INTRODUCTION.

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THE body of this book was in type before the Royal Commission to inquire into the grievances of the Highland Crofters began its labours, but its publication was delayed to enable me to glance at its proceedings in an Introductory Chapter. Some of the statements made in the book itself were described by certain interested individuals as exaggerations; others hesitated not to apply even stronger terms, without the slightest pretence to a personal knowledge of the facts. Keeping this in view, I resolved to await the result of the Inquiry of the Royal Commissioners in Skye before publishing this volume. The first portion of the work has appeared in my "History of the Highland Clearances," now nearly out of print, but I felt that Skye deserved a volume specially dealing with itself, during a period in its history when the eyes of the whole of the British people, and indeed of the civilized world, were upon it. The Social Unrest which has exhibited itself in the Island during the last two years, will prove the turning point in a long reign of oppression in the Highlands. To the Men of Skye will be due the honour of securing a complete change in the system of land tenure which has hitherto kept the Highlands under the foot of the oppressor; and this fact alone will give an interest to what might otherwise appear comparatively trifling incidents, but which, in the

circumstances, I deemed worthy of record in the following pages.

Let us first see how the evidence given before the Royal Commission affects what appeared in my previous work, and what I reproduce in the first portion of this volume. When it first appeared, in my "History of the Highland Clearances," few people believed that the description given of the Social Upheaval and its results in the Braes and Glendale were not greatly exaggerated. Indeed, that was quite expected ; for it does appear incredible that the antiquated customs and petty tyrannies inflicted upon a noble race by factors and landlords in that part of the Queen's dominions were possible, within the bounds of civilization, much less in the British Isles, whose leading statesmen, in the past, have in most cases secured the brightest settings in their reputations by taking the side of oppressed races in what were hitherto held to be much less favoured lands than our own. The Royal Commissioners examining into the grievances of the Highland Crofters have, during their Inquiry, not only brought to light facts corroborative of all that has ever been written or said on that subject, but disclosures have been made in the Isle of Skye which no one unacquainted with the facts could have believed, until, after hearing both sides—Crofters, Landlords and Factors,—it has now been placed beyond dispute. It is very remarkable, as well as instructive, that the factors made scarcely any attempt—much less succeeded—in rebutting any of the statements made in my recently published "Highland Clearances" about the state of affairs and what has led up to it, during the last two years, in the Braes and in Glendale.

All that I have written, and much more, about the Braes has been corroborated by the witnesses examined before the Commission; and the factor for Lord Macdonald,

Mr. Alexander Macdonald, has not, in his long and—from his stand-point—able statement, read before the Commission, made any attempt to rebut a single statement which has been hitherto made.

Mr. Donald Macdonald, the famous "Tormore," fails to contradict anything which I have written of his factorial rule in Glendale, or elsewhere; on the contrary, he admits it all and much more. At page 15, he is referred to in his capacity of judge, and before the Commission he fully accepted the position. In a curiously-involved statement at Portree he declared in this connection that, "In his capacity of factor, justice of the peace, and general well-wisher of the people, it had fallen to his lot to decide two cases against Peter Mackinnon, postmaster, Glendale". Referring to the harsh notice which he had issued against the people of Glendale for trespassing on the lands of Waterstein, he not only admits having issued it, but adds that perhaps it "was injudiciously worded and written in a fit of temper". "It was quite true," he also admits, "that the small farm of Lowerkell was cleared and the larger farm of Ramasaig partially and nearly completely so." He confesses to having put the people on their guard against reading certain newspapers and other literature, and then makes the important admission, from him, that, "taking the whole Island," for which he was mainly responsible, "there was some foundation for the discontent that had been manifested;" and when asked, "Can you suggest any remedies?" he replied, "Give them more land, with all my heart," and "I would put them on such a footing that they could not be deprived of their lands according to the whim of any proprietor, and certainly not of a factor. It would be a very unhappy thing if matters remained as at present." When examined a few days earlier at Isle Ornsay

he stoutly denied having issued notices to the effect that an additional rent of £2 should be charged against any one opening a small shop for the sale of groceries and provisions. The Rev. Finlay Graham, Free Church Minister of Sleat, however, in answer to the chairman, after having expressed reluctance to do so, said, "*I have seen the notice*; to the best of my knowledge it was this—that any shopkeeper in Sleat or Broadford would not be allowed to sell goods without an additional £2 of rent". In answer to another question, the reverend gentleman said, "The general feeling in the district was, 'What are we coming to!' I could not say how long the notice was left, but I saw it on the door of the Inn at Isle Ornsay." Tormore replied, "I have no hesitation in saying, if that notice was put up, it must have been a forgery. I never ordered that notice to be put up, and the Innkeeper and his son are here to corroborate that no such notice was put up. The only way that I can account for it is this—I did put up a notice to the very effect that was borne out by Mr. Graham, not on this property, but on the property of Glendale. . . . I must emphatically state that I put up no notices in the parishes of Strath and Sleat, but I did so in Glendale." At Portree, however, he admitted "that he might have been mistaken when denying that a notice had been put on the Inn doors as to a rent to be charged against shops" in Sleat and Broadford. He did not deny that he compelled the incoming tenants to pay the arrears of their predecessors. The statements of the Glendale people to that effect were fully corroborated by several witnesses in Sleat, one saying, that "the rule of the Estate was that the incoming tenant should pay the arrears of the out-going tenant," and another that it was a common practice. "I know it was the rule," he says, and "I know that Tormore, the factor, was demanding

arrears from the incoming tenants." Alexander Maclean, the last witness examined at Glendale, stated that "on taking a croft at Milovaig he was made to pay £20 of the arrears of his predecessor, to Tormore. He paid the sum down, but was only left two years in possession. During this time he was served with two summonses of removal, and although he was loth to go, after having paid so much money for the croft, he ultimately did so to escape from the persecution to which he was subjected." Tormore did not attempt to deny this, but, on the contrary, in answer to Lord Napier, stated "that the payment of arrears by the incoming tenants," on Lord Macdonald's estate, "was a pretty general practice, and was enforced". Asked as to his alleged participation in the profits of trade in the firm of Neil Kennedy & Co., Isle Ornsay, or whether he was a partner in the firm at the same time that he was factor for Lord Macdonald, he replied that he "did not expect to be examined on that question"! He however admitted "dealing in meal" here, as well as in Glendale, and also that he told Mr. Kennedy on his taking the shop, on his recommendation, that, "if my influence, or money, or my name was any use to him, it was at his service". He "*was* in the habit of buying cattle from Lord Macdonald's tenants while he was his factor". Lord Napier having put the following question,—“Did it never occur to you that by trafficking with the people in this way, in your capacity of farmer, you exposed yourself to imputations?” Tormore innocently answered, “No”.

Murdo MacLean, Husabost, stated before the Commissioners that “ten days’ work was claimed by the proprietor from each crofter at Spring and Harvest times, and all the thanks and wages received was abusive language. The labour was so severe that it required the very strongest of



the people to stand it, and was it not a disgrace to civilization that any human being should be compelled to perform horses' work without thanks or wages?" In cross-examination he admitted that this work was not given by the tenants last year, but added that "the service would still be exacted if we did not rebel against it". The following dialogue between the witness and the chairman is worth recording:—

Q.—Would the proprietor exact the services where it was inconvenient for the tenant to give it?

A.—We were bound to render the service any time it was wanted.

Q.—Supposing they were doing their own harvest work, would the proprietor take them away and make them work at his own harvest?

A.—Although only my wife were at home, and my corn going to the winds, she must needs do the landlord's work when required. I remember coming home from the fishing after I had been four months away. I found my wife reaping the landlord's corn, and she asked, as a favour from the factor and manager, to be allowed to go home to prepare food for me, and she would not get leave. (*Sensation*).

Q.—Were you allowed to find a substitute for the work?

A.—Yes, if I paid.

Q.—It is stated in the paper read that abusive language was used?

A.—The language was so bad that I would be ashamed to repeat it in the presence of gentlemen.

Q.—On whose part?

A.—The manager, Campbell.

In the statement presented by Donald MacLean, Galtrigal, on behalf of his township, it was stated that "they were also forced to work ten days a year, a man or woman from each croft, for the proprietor, and if they did not they were in danger of eviction. They had also to buy hooks from the proprietor to shear his own corn, and if they did not attend to his labour they were charged 2s. 6d. a day, but if they got any work from him for payment [over and above the ten days' free labour], he only gave them 1s. and 1s. 6d. a day.

When questioned as to these practices on his estate, Dr. Martin said that when he first acquired the property, he "then found the practice of free labour existing," and he continued it. According to one of the witnesses, the Doctor largely increased the number of days, and this Dr. Martin did not deny. Asked whether his manager was in the habit of going round and buying the tenants' cattle? Dr. Martin expressed unbelief, but added, "My manager might do some things of which I was not aware".

Q.—"With reference to the custom of purchasing the fish, was that a rule of the estate?"

A.—"That was the rule before I had anything to do with it."

Last Spring, Dr. Martin issued a notice which was posted up on the door of the local Post-office, and several other places, to the following effect :—

"All beasts bought from the crofters will be seized, whenever found, unless the purchase price be paid to me."

This notice I have myself seen, on the 19th of May, on the Glendale Post-office door.

It will, I think, be admitted that these statements, made by the witnesses, admitted by Tormore and Dr. Martin, more than fully corroborate everything that I have ever said or written as to the state of matters existing on the respective properties under their control in the Isle of Skye. I must, however, say a few words more in this connection before parting with Tormore. His failings of memory "without his books," have become proverbial in the West, and it is but charitable to assume that this weakness must be held responsible for contradictions and inconsistencies in his statements, otherwise very puzzling to the disingenuous. He has presented the world with a version of a certain conversation which he alleges to have

taken place between himself and me in a railway train, in reference to the appointment of the Royal Commissioners, so grossly inaccurate that it appears quite inexplicable, but for his constitutional defect of memory. Whatever effect my efforts may have had in securing the Royal Commissioners, as Tormore puts it, I have no hesitation in admitting that it would be most unfair not to give him full credit for his share in our success, and that the Commission would yet be in the distant future, were it not for the impetus given to our efforts by the imperious conduct of Tormore in the Isle of Skye; and I only trust that he is as satisfied as I am with the result of the inquiry hitherto. Tormore, as a man, was a very good fellow, and one is sorry to find him placed in a position in which, by contact with a pernicious system, he not only becomes a changed man, but is, on occasions, driven to the commission of acts unworthy of a gentleman of his position and pretensions.

In connection with this case he brought upon himself, at Portree, a singularly severe, but well-merited rebuke from the chairman of the Royal Commission. Having, as he thinks, discovered qualities in others which clearly are not such as he can fairly lay claim to, if I may judge by the exhibition which he made before the Royal Commission at Portree; and after giving me credit for having "to answer for a lot of sins," over and above any of the others whom he was pleased to designate as "the instigators of the rebellion in Skye and the West," he elegantly exclaimed, that I "had got a broad back and a very thick hide"; whereupon Lord Napier peremptorily rebuked him, and told him that such language was "not permissible," and then, appealing to qualities which did not appear predominant in the particular case before him his



Lordship thus addressed him :—"Your own sense of propriety, and your gentlemanly feeling, should prevent your using language which is provocative and offensive". Poor Donald evidently felt the crushing rebuke, and he "exposed the raw" to an unexpected degree.

Tormore, the factor, and Tormore, the man, are evidently too widely different persons. Indeed this is the case with most of his class. They have, in many instances, to do the dirty work of employers who would be perfectly ashamed and quite incapable of doing it for themselves, though they are not always ashamed to bask in the sunshine of society in the South on the proceeds of factorial meannesses and accumulated tyrannies on their neglected people and properties in the North.

#### EVICCTIONS IN THE ISLE OF SKYE.

I shall now briefly point out the nature of the evidence submitted to the Royal Commission on Evictions from the Island, with many of which I was unacquainted when I wrote my general history of the Highland Clearances. The extent to which these were carried out in the Isle of Skye, almost quite unknown outside its own borders, is simply astounding, and it is high time they were made as widely known as it is now possible to make them.

Mr. Neil Nicolson, Torrin, 76 years of age, in his evidence at Broadford, described those carried out on Lord Macdonald's property in the south end of the Island during his own recollection. He was only five years old when the land in Sleat was laid out in crofts, and ten years after, the people were evicted from these lots, to make room for the late Major Macdonald of Waternish. They could not

get an inch of ground in Sleat, but were crowded into other places. Kilbride was cleared, 58 years ago, to make room for the late Rev. John Mackinnon, Parish Minister of Strath. There were 8 lots there, but more families; 5 more were from Carradale, and 9 from Ferrindonald. Those from Carradale were evicted by Tormore, and their lands added to his own farm. 22 families were evicted from Suishinish and Boreraig. Regarding these, fully described in my "Highland Clearances," pp. 236-248, Donald MacInnes, Duisdale, said, "I remember very well the removal of the people from Boreraig 26 years ago. Some of the people perished from the hardships they had to endure when put out of their houses. It was in time of snow they were put out; one man perished. He belonged to Suishinish. He was found dead at his own door after he had been evicted. His name was Alex. Matheson. There was great hardship connected with that eviction. The fires were extinguished, the houses knocked down, and the people forced out much against their will, the officers compelling them."

Regarding Ferrindonald and Carradale, on Lord Macdonald's property, Nicolson said, "These places, and a number more, are in possession of Tormore, who has Sleat now from sea to sea. All these Clearings were on Lord Macdonald's estates; the present is the ninth factor under whom I have been, and the fifth Lord Macdonald."

Donald Mackinnon, Elgoll, on the property of Macalister of Strathaird, stated, "that from the township of Ceapach, no less than 44 families had been evicted in 1852, and 8 other townships in the neighbourhood were cleared at the same time. The tacksman who marches with them has six miles in extent, and the whole estate of Strathaird is in the hands of large sheep-farmers, except the square mile which forms the township of Elgoll, into which 64 families—47

crofters, and 17 cottars—have been congested to make room for sheep. There has been no resident proprietor on this estate since 1832.” Hugh Macpherson, Haripool, said, “That removals have been common there in his time, among whom were several widows”.

The Rev. Donald Mackinnon, Minister of Strath, was questioned as follows by Lord Napier:—“We have heard a great deal said of the eviction of the people in former times, of their land being taken from them, especially the hill pasture given to tacksmen, and of the people being crowded into inferior lands. Do you think that the system of creating large farms, and adding to them, and crowding the people into smaller holdings was in past times carried too far for the welfare and the happiness of the people?” Mr. Mackinnon replied, “Most undoubtedly; I think these immense sheep farms are great evils in the country. I have no hesitation in saying so, while I think a moderate sprinkling of comfortable tacksmen among the crofters is very much to their advantage”; and he added “that he thought it a certainty that the proprietors would not now be able to re-let the large holdings, except at a great reduction of rent”. Mr. Mackinnon is himself a farmer as well as a minister, and is therefore well qualified to express an opinion on this question. “I should like,” the reverend gentleman continued, “to see a tax imposed upon non-resident farmers and proprietors. It is one of the greatest disadvantages to our country that the landlords are non-resident, and I have no doubt that in some cases the people had been inconsiderately and selfishly used by the landlords for the purposes of increased rent.”

Finlay MacInnes, Waterloo, produced the following letter, affecting 149 souls in his township, every crofter there having received a similar notice:—

TORMORE, BROADFORD, SKYE,  
21st October, 1872.

MR. FINLAY MACINNES, 16 Waterloo,  
SIR,

I have to intimate that your land and grazings have been valued at £1 15s., and you are to be charged at that rate from Whitsunday last. If you consider yourself aggrieved, you will intimate the same to me by writing within ten days from this date, when I will relieve you of your land and let it to another.

Your obedient servant,

D. MACDONALD.

N.B.—I have strict orders to allow no arrears after Whitsunday.

Mr. Fraser-Mackintosh put it to MacInnes :—"Supposing you were not disposed to pay the increase of rent, the letter informs you that you will be turned out in the middle of a year!" to which he replied—"I had no other expectations. I could not say that I would not pay, or that would have been the result; and everyone else in the township was in the same position."

Mr. Fraser-Mackintosh, at a later stage pointed out that there were two illegalities in this notice, one raising the rent between the terms, and the other, in telling these poor people that unless they signified their acquiescence in ten days they would be removed from their holdings.

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#### BRACADALE EVICTIONS.—MACLEOD OF MACLEOD'S PROPERTY.

Malcolm Mackay, Struan Beg, stated that Dr. MacLean, Talisker, cleared the townships of Fiscavaig and Ardhoil of 12 families. Hugh MacCaskill, succeeded Dr. MacLean, and he evicted 16 families from Aird Bhreac and Heille. "When Dr. MacLean found a crofter's sheep on his farm, and the owner was not prepared to pay half-a-crown on the spot for it, he would have the ears of the sheep cut

off close to the skull." In reply to Mr. Fraser-Mackintosh, the witness continued—"Dr. MacLean was not long in possession before he began to remove the people. MacCaskill had the place a year or two when he commenced the Clearances. The people were warned to remove. They were so ignorant at that time that they would remove for anything. The whole of Minginish was held by MacCaskill. It is now in the hands of two tenants. All the people removed by Dr. MacLean and MacCaskill were in comfortable circumstances. They had cattle and horses and sheep at that time. I am not aware that any of the people were in arrear, but Macleod of Macleod was due some of them money for making roads. The Clearances from MacLean's land were made in the time of the last landlord, and those of MacCaskill in the present landlord's time. The MacCaskill family came to poverty at last; they went to the dogs. I never saw it [cutting off the ears] done by anybody else but himself. This mark is well-known as 'the thief's mark'."

The following proceedings, almost incredible, were detailed by John MacCaskill, Shoemaker, Ferrinlea:—"I have learned from older people than myself that the Clearances commenced about 70 years ago. MacCaskill had only Rhu-dunan in his possession at that time, and Glenbrittle was occupied by crofters in comfortable circumstances; he cleared it, and made a sheep run of it. There was then a church in Glen Inch, there is nobody there now to use it. The church is in ruins, and the manse is converted into a shepherd's house. The clearances were made on the one side by MacLean and by MacCaskill on the other. About a dozen families all in comfortable circumstances were removed from Tusdale."

In reply to Mr. Fraser-Mackintosh, he said—"There used



to be 16 families in Crickernish ; there is nobody there now but a shepherd. From other townships about 47 families were removed. Hugh MacCaskill was barely settled when he began the same operation as MacLean. The big township of Ferrinlea which was occupied by 30 families was cleared 50 years ago. A township in Minginish, with 12 families, was cleared, and the people in a place called Lec-a-chlerich were evicted and the people scattered throughout the world. The MacLeod family began the Clearances and MacCaskill finished them. There was another township near Carbost Beg, in which there were four families who were very well off. The daughter of a widow told me that her father had given Hugh MacCaskill £180 to help him when he came to Talisker, but when the place was cleared, he removed her mother along with the others. This woman saw her father's corn shoved into the river when the place was cleared to make a distillery."

The Chairman—"Is that the whole list of Clearances you have to mention?"—"No; I may say that what the Assyrians left undone the Babylonians finished. I refer to the present tacksman as the Babylonian. Those whom I named before are dead. I want now to speak of the living. I begin with Mr. Cameron, the present tacksman of Talisker. He got the tack 33 years ago, and when he came he made up his mind that there should be nobody else on the place at all. MacCaskill had left a remnant of the people for his own convenience, but when Mr. Cameron came to Talisker he would have nothing to do with any of the people, and, as I have understood, he began to litigate with the landlord, holding out that their being allowed on the tack was not mentioned in his lease. He would give us nothing, and would have nothing to do with us. It then came about that he would have to take the tack as he got it or leave it.

He deprived the cottars of the grazings which they had for 20 years. They could not get any. He also took from us our peat moss and gave us a bog which neither man nor beast had used up to the time he measured it out to us by the yard. The cottars who had been left by MacCaskill at Fiscavaig, Cameron deprived of their peat moss. They got for it a piece of bad land which could not be called earth or moss. They had to cut it for fuel. Then he removed ten cottar families which had been left by MacCaskill at Torten-an-Fhirich, and ten or eleven from Fiscavaig, and put them in Ferrinlea, dividing the existing holdings. For this we were obliged to work for the tacksman of Talisker whenever he required us. The strongest man, though he were as strong as Samson, only got 1s. a day, and the women 6d. We had often to walk nine or ten miles to attend to his work. Though we had other employment we had to leave it and work for the tacksman if he asked us to do so. Persons in business like myself lost our trade in consequence. He complained of the way in which my brother and I were doing his work. We saw it would not be easy to satisfy him. I told him we would stop working for him entirely and pay him in money the equivalent of our work according to the rate of wages in the country. Because I had the coolness to say that, my mother, who is about 75 years of age, and myself were served with a summons to remove. There was nothing for it but that I should apologise to the tacksman, and sign papers that I would be obedient to him in the future, or that the whole of our family should leave the country. When my brother saw what was likely to happen he went to Talisker to make peace; he said he would go in for the land, and asked that the matter should be allowed to pass by. We have been allowed to remain on that footing."

In answer to further questions, he said—"Mr. Cameron of Talisker told me that the landlord had blamed him for his usage of the people. If it had not been for MacLeod's interference there would not have been a representative of the families of the original inhabitants of the district to bear testimony here to-day. It was MacLeod's wish to keep these people—and that was what caused the dispute."

Alexander MacCaskill, cottar, Cuilore, stated, in reply to Sheriff Nicolson, that "all in his township have been put off other townships forty years ago. There were removed, from Meadale ten or twelve families; from Somerdale ten families; from Crossburgh ten or eleven families; and from Bendhu six families." He "remembered two of these removals. They took place when Norman MacLeod (father) and Martin MacLeod was tacksmen at Drynoch. All these townships were now vacant. Many of the people went to America. Some have succeeded abroad, some not."

In reply to Mr. Fraser-Mackintosh, he said—"That ten townships were cleared on Drynoch by Captain MacLeod. There were cleared in addition to those he had already mentioned, Ferrin-nan-cailleach, with five or six families; Colbost, with four families; Glenbracadale, with two families; Glenachadaloch, with three families; Invermeadale, with five or six; and Boust, with four families. All these places were empty now, unless there was a shepherd."

Alex. Matheson, Carbst, who said that "the people were turned out wholesale" to make room for the distillery, added, "I have to complain of the poverty of the people of Carbst and the miserable houses they have. The families, until they are grown up, have to sleep in the same room, which is a sheer violation of nature. Our meal mill has gone to ruin. For the past twenty years there has not been



a peck of meal ground in it; and I have seen my father having to wait for a whole week for his turn at the mill. That was before the first potato blight. As to the Clearances, I have only to repeat what the previous delegates have stated."

Donald Campbell, crofter, Struan Mor, said—"I wish to state that the townships of Colbost, Ebost, Ullinish, Struanmor, and Struanbeg were added to the tack of Ullinish when Mr. Gibbon became factor to MacLeod. The tenants were also removed from Glen Colbost, Glen Ose, and Glen MacCaskill. They were in very comfortable circumstances before they were removed. Five of the families were sent to a wet, black place called Garmore, which had not been cultivated hitherto. Twenty families who were in Ullinish he sent to Struanmor, where he gave them a corner of land which was lotted out among them. That land had been cultivated for 40 years. All this happened in 1841. None of the people had a cow, but the merchant. He left 3 or 4 families in Ebost, and 5 families went to Australia to try and better their condition. Mr. Gibbon compelled them to give him 4 days' labour. Mr. Gibbon was 15 years in possession of the tack, when he was succeeded by his nephew, Mr. Norris, who was not better than him. If a man married, his father dare not give him shelter for a night, and the young man and his wife must needs leave and go into the cities. When the parents became old they became poorer, until they came on the poors' roll, as their children were not allowed to remain with them. After Norris, Simpson, his brother-in-law, took up his farm. He was a non-residenter. He had a manager on the farm who was the worst that ever came to us. He treated the people very badly. He was ten years in the place, and after him Mr. Robert Macdonald took the farm." Campbell further

stated that "there were other three places cleared in Ullinish and Ebost, besides those already mentioned, viz. : Nagli, Ose, and Balmeanach. There were four or five families in Ose who were removed to another part of the same place, and were made to build their houses on a peaty soil beside the river ; and when the river was in flood some of them had to flee for their lives. Their new place was much worse than their old. He did not know how many were in Balmeanach, but the remains of a considerable number of houses might still be seen there. Ose and Balmeanach were made into tacks, and these, with Glen Caskill and Glen Ullinish, were made into one tack by Mr. Steven."

The following account given at Skaeboat by Neil Shaw, 60 years of age, crofter, Eyre, is well worthy of record :—  
"I was in Duirinish at one time. There were ten tenants in the township. Bad times came upon us, and Mr. MacCaskill and his officer said if we put our stock into their hands they would get better prices for us than we could command ourselves. This we did, and it went on for two years, before the end of which the tenants had got so much into debt that they were unable to keep their holdings, and he took the land himself. Some of the crofters went to Australia, myself and four others remaining here. We got a new township laid out for us at £40 rent. We were there for five years. There were seven of us located on the ground at first, but latterly only five. When Tormore became factor he never rested until he became possessed of our lands. He removed the five of us, although, I believe, not one of us was a sixpence in arrears ; but when Tormore became factor he took some convenient lots adjoining our township, and he never rested until he got possession of our land. Tormore was then factor for Orbost and for Lord Macdonald, and he promised me that if I went to Eyre every-

thing would be done for me. We did not want to leave the township we were in in Orbost. Tormore cleared two townships—Ramasaig, in which were 22 families; and Lowerkell, in which I resided, and took the land himself. He stated that the rent was too heavy for us and the township too big for us, and I replied that another crofter and myself were quite willing to take it all. I am a good deal worse off than I was. I was free of debt then; I am not now. The year that I came to Eyre turned out to be a bad one, and I got largely into debt before I could pull myself and family through. One particular thing that can be done for us is to give us land at its value. I believe I am paying double rent for the land which I have. Should we get good land, I would like it to be a condition that neither the landlord nor factor should have the power to remove us. I would not take a lease because they would just put us away at the end of it. I know too much of factor's work now. In the event of our getting land at a fair rent, we would require to be made sure against eviction."

### THE GLENDALE EVICTIONS.

From Lower Milovaig, 8 families were evicted between 1840 and 1845. At different periods 12 families were cleared from Upper Milovaig, half of these being removed 15 years ago. Within the last fifty years, 19 families were removed from Ramasaig. No new lots were provided, but the old lots were subdivided by the proprietor, for the occupation of those of them who could not be induced to leave the country altogether. Alexander Ross, Fasach, stated, "that out of 22 families who formerly tenanted these lands, there were now only three cottars; and the land, like

others named, was now under sheep." Allan MacCaskill corroborated this, and added :—"It is 19 years last spring since Tormore became factor, and he left about a year ago. He held in his own hands a considerable portion of the best lands of the estate. He removed the crofters from Lowerkell, Ramasaig, and Hamara. When MacCaskill complained to Professor Macpherson, one of the Trustees, the latter told him that "he would take my holding off my hands, but there was no word about what I was to get instead. I said to myself there was no use in doing anything further about it; it would only be 'the gallows succeeding the fever'. I was the man who summoned the gamekeeper to Court seven years ago for killing my dog, and for firing his gun in the direction of my wife. The gamekeeper was fined 10s, with an alternative of three days' imprisonment. A man gave evidence in my favour in that case, and he was deprived of his croft in consequence. He was the best neighbour I ever had; I knew he was not in arrears. He gave evidence in the middle of May, at Portree, and next year he and I were served with notices of removal. In 1834, Colbost had been cleared to make room for Tolmie, a sheep-farmer, but at the end of his fourteen years' lease, the people got the land back again, when the late proprietor, Sir John MacLeod, returned home from India. MacRaid, the factor, however, unknown to Sir John, took away a part of the towship worth £16, but still charged the old rent against the small tenants, though directed by Sir John to give them the whole of the lands at the old rent. The landlord only visited his property once during the last fifty years." Mr. MacLean, Hamara, said, "Tormore was displeased with me because I gave hospitality to two persons who visited the glen, and he threatened to do for me because of that".

## DR. MARTIN'S ESTATE.

John Mackinnon said, that "Scorr was depopulated by Mr. Nicolson's predecessor. Like the other townships on the estate, Ferrinvicarrie had been deprived of the sheep and hill pasture. Mr. Nicolson imposed four days' free labour on them; Dr. Martin increased it to ten." This was not denied. Regarding this free labour, Alexander Mackenzie, crofter, Boreraig, in a statement presented by him on behalf of that township, said, "that at this unlawful labour, the griever, named Campbell, used to make them work like slaves. The women were in perfect dread of him. If they did not work as hard as he wished, or if they were absent for a day, he would threaten them with eviction. There were 26 families crowded into the township. Both men and women had now to do the work of the horse, while their children were going about naked for want of clothing." No attempt was made by Dr. Martin to refute this evidence when afterwards examined by the Commissioners. On the contrary, he admitted it all, and appeared to think that such proceedings were quite justifiable.

## MACLEOD OF MACLEOD'S PROPERTY OF DUNVEGAN.

Dr. Fraser, Edinbane, in reply to Mr. Fraser-Mackintosh, said that he rode about a great deal over the Island, and in the course of his observations he constantly saw the ruins of hundreds of houses that were once occupied by the people. He saw them on every hill-side, and the appearance presented by the grass about these places denoted that there was a considerable depth of good soil; most of the spots were pretty and green.



Mr. Malcolm MacCaskill, Kilmuir, Duirinish, who stated that his father had been evicted four times, handed in a long statement, in the course of which he said :—"The proprietors hate to see the face of man, as their Clearances of the land show. They have more respect for sheep and cattle ; when a crofter leaves the place or dies, his next neighbour will not get his croft, but it is given to a stranger. There were seven crofters removed about fourteen years ago in order to add their lands to those of the new Hotel at Dunvegan."

John MacFie, aged 74, after stating that he had been in his present croft for forty-six years, continued :—"In 1840, there were seventeen families removed from Feorlick by Mr. Gibbon, the tacksman, who took the land and the people on it. They were placed, some by the sea, some on peat land which had never been cultivated. Some of them did not get a place on earth on which to put a foot. I myself saw them living under a sail spread on three poles, below high-water mark. One of the crofters, Donald Campbell, was warned by the ground-officer for giving refuge to a poor man who had no house. The ground officer came and pulled down the house, and took a pail of water and threw it on the fire. By the noise made in the extinguishing of the fire and the denseness of the steam, the wife went out of her mind. He never saw one so mad. Mr. Scobie came afterwards, and Macleod of Dunvegan gave us all over to him. He said that it was God who sent him there. Rather than settle on the mossy ground which they were shown, two of them preferred to go to Australia. They died on the passage, and were thrown overboard. When Campbell was put out of his house, not a tenant was allowed to give him shelter. He had nine of a family, and they had to remain on the hillside on a wet night. Scobie took

our hill pasture, which we had for fifty or sixty years, and settled crofters upon it. We are still paying for that hill pasture. We have no road, and if any of our people die in the winter he has to be buried in the sea or in the peat moss. Scobie closed up the road to the church-yard with a gate, and before we could pass that way we would have to break down the gate."

WATERNISH, THE PROPERTY OF CAPTAIN ALLAN  
MACDONALD.

In the life-time of Major Macdonald, the present proprietor's father, a great amount of pasture was taken from the people, which, as Donald Mackinnon said, "our forefathers had". Another witness, John MacLean, said, "Factors came before the Macdonalds got it, and these are the people that spoil a place. The last factor that was before the Macdonalds removed the people from the high to the low ground near the shore, took away their sheep and horses, and put stock of his own on the hill." According to Neil MacDiarmid, "the west side of Waternish was cleared". He also states, "I cannot say to a mile how much land the proprietor occupies himself, but he has the ground of several townships. I cannot give an estimate of the land once arable and occupied as townships now in the proprietor's possession; I will not try it, but it is big enough. If you are on board the steamer, you will see that it extends from sea to sea." Asked if he could give any idea of the number of families that formerly occupied the lands now in the hands of the proprietor, he said:—"There were 18 families in Minsh; 4 in Baile-Sheorach; 18, latterly, in Scorr; and 10 in Lower Halistra". He thought all these clearances were made by the present proprietor's father,

about 1849, and others were made by Mackinnon of Corry, while factor for Grant, an earlier proprietor. One of the witnesses here, Alexander Morrison, in reference to the Glendale martyrs, ominously declared that, "The parties who were the means of getting this Royal Commission for us, are now suffering in prison, and we are quiet here; but if we don't get justice, we will go to prison ourselves, or else we will sell our lives as dear as possible!"

#### GRISHORNISH, THE PROPERTY OF MR. ROBERTSON.

Murdo MacLean, Crofter, Edinbane, said that "there were plenty of evictions in Grishornish and Coishletter, before the time of the late Mr. Macleod. Many of us have seen the law-officers come and strip the roofs in Edinbane, and pour water down to extinguish the fires. The people evicted mostly emigrated. They got no compensation. The land is now largely in the hands of Mr. Robertson, the factor." He "makes us twice a year build up a dyke that keeps our own sheep out of our own grazings. We have to submit to such things for fear of being evicted. There is land we might get on the Grishornish estate, from which crofters had been removed, such as at Coishletter, which was cleared about twenty-nine years ago, when Cameron was proprietor." Proceeding eastwards we pass through the estate of

#### LYNDALE.

Here all that was brought out in evidence amounted only to the curtailment of hill pasture, which had then become the universal practice, and the precursor to ulterior evictions from the arable portion of the people's holdings. In



## SKAEBOST

Several crofters had been removed from one place to another, but no evictions, in the usual sense of the term, have been carried out. The reader must now take a long drive to

## KILMUIR,

The property of Major Fraser, the first portion of the Island in which open expression was given to the dissatisfied feelings of the people. As he passes along, the large farm of Skorrybreck, showing unmistakeable evidence of having at one time supported a large population, is left on the right, while on the left and in front, between him and Kilmuir, are the large tacks of Kingsburgh and Skirinish, both of which, also, at one time maintained an extensive population in positions of great comfort, while the large tenants themselves were none the less so.

John Gillies, South Creil, Uig, said that he had been removed five or six years ago, with five others, while at the same time, an equal number of families were cleared from the opposite side of the loch, and he knew no reason for these removals "except the will of the landlord". There was land not far off which would be suitable for the people if they could get it. "Glenuig is a beautiful glen. It is in possession of Mr. Urquhart, the Innkeeper. That glen, fifteen or sixteen years ago, was in possession of small tenants. The overcrowding in the district was caused by the clearing of the glens to make room for large sheep-farms." Peter Macdonald, Glenhinisdale, stated that the hill pasture was taken from the people, there, sixty years ago, to be added to the already large farm of Kingsburgh.

Twenty families were removed from the lower ground of the farm now occupied by Mr. Urquhart, with the Inn, in Major Fraser's time.

Malcolm Nicolson, Schiadder, stated that originally they held more fertile crofts than they now do, "but these" he said, "we were deprived of; our original crofts were turned into a sheep-farm. There were 42 crofters in all in the place, and we were all removed. Some went to Australia, some to America, and to various other places. We were then comfortable. We are now quite the reverse. It was Major Fraser who removed us. There were great hardships experienced in connection with the removals from Glenuig. Many shed tears." Angus MacInnes, merchant, Pecsoraïd, said—"The removals of the people have had a great deal to do with their poverty. I never heard of removals to a better place. I used to be a crofter and was twice removed." Donald Macqueen, Conista, Kilmuir, stated that the rents had been raised four times, though their hill pasture had been taken from them, and the factor considerably told them that they "could leave if they were not pleased. Eighteen families were removed from Duntulm and their lands added to that already cumbrously large farm." The hill pasture was taken from the crofters of Herkbusta, eighteen years earlier, when it was divided between Monskadt and Duntulm. The tenants of Hongladder were similarly treated, their grazings given to the same large tacksmen, and the poor people removed from good arable crofts to very inferior land. That the want of pasture is the main cause of the existing poverty is the universal song.

Norman Stewart, crofter, Valtos, said that the best piece of the hill pasture was taken from one end of the township, and that overcrowded the rest. The part of the grazing

taken from them was also added to Duntulm. "The people are poorer than I can tell. Their poverty is indescribable. When they go to the dealer for a boll of meal the animal he is to get for it must be marked. We are constantly getting poorer. Some of our poverty has been caused by our hill pasture having been taken away." Archibald Macdonald, Garafad, said that "they were not making the most of the land owing to insecurity of tenure. They did not know but what they might be deprived of the remainder of their holdings as well as what was already gone. If the landlords did the one they might do the other. They were only putting the ground in heart to the extent which they could exhaust in one year." Questioned by Lord Napier as to the evictions at Bornesketaig, Kilmuir, eighteen years ago, he said, "both crofters and cottars were removed, and their township was added to Monkstadt. Four of the cottars were placed in Totescore and other places from Balgown. Four crofters were removed, and, after, the adjoining township of Feaull was cleared; there were two tenants in Feaull. One left of his own accord, and the other had to give up the place owing to excessive rent. After that Lachasay, on which there was one tenant, was cleared and the land added to Duntulm. Besides the tenant who paid rent there were two families who did not pay rent. The township of Scorr, adjoining Lachasay, was afterwards cleared of two families, and the town of Osmagarry was next added to Duntulm. The lots in Bornesketaig were then as numerous as they are to-day, but I have been told by old persons that they were once occupied by a number as small as four to seven. The township lands were more extensive then than they now are. All these evicted people were placed in other townships on the property, and for the most part on land which had been exhausted by their predecessors.

The lots they were put into had been vacated by crofters who had been compelled to leave through the poverty of the land and their straitened circumstances. Some of the tenants who were removed were not able to take crofts at all, and they became cottars. There were in all 24 families evicted."

John Mackenzie, Malagar, after stating that his whole district was deprived of the hill pasture to the extent of two-thirds, said—"Unless we get a reduction of rent we cannot hold out long, as we will soon lose all we have"; and he then naively added, "We were hearing such good news from Ireland, that we were inclined to turn rebels ourselves in order to secure the same good results".

Norman Munro, Catechist, Clachan, was examined by the chairman about the propriety of the people emigrating to the colonies, when the following dialogue occurred:—

Q.—"What do you think should be done?"

A.—"That they should get cheaper rents, get more land to keep them in employment without running from place to place to work for money to support their families. There is no doubt that the custom of going away for several months in the year to different places to look for employment has had a bad effect on the happiness and character and morality of the people. If the men remained at home with their wives and children, and earned their subsistence here, they would be happier and better."

Q.—"What about unmarried people? Could young men not improve their condition by going to other parts or to the colonies?"

A.—"Well, I think they would just be as happy at home. If the land, after being properly sub-divided, was unable to support the whole, then the rest could go to the colonies, but the best of the land lies waste in the meantime."

Q.—“But would it not be better to sub-divide the land to fewer, and send the rest away to the colonies; as, by the time you speak of, the colonies would be filled up, and there would be more to send away?”

A.—“Well, that is a question; but I would divide the land in the meantime, and let the future look after itself. Do you not think, my lord, that I have a good right to the lands for which my forefathers died. I had an uncle who was taken away by Macleod of Macleod for the defence of his country. My grandfather and my father went into his croft at Colbost, but they were afterwards evicted. Have we not as much right to these lands as strangers or deer? It is the claiming of such rights in respect of what our fathers did for the country that has been causing the little disturbances in the island.”

Rents were increased to an incredible amount, while the hill grazings, and the best portions of the arable land were, at the same time, taken away, and that not less than on four different occasions, since Major Fraser acquired the property. The case of

### THE BRAVE OLD CROFTER

will illustrate this and other high-handed proceedings on this estate so completely that I am tempted to give it at length. The following authenticated version of it is from the *Celtic Magazine* for August:—

Donald Nicolson, formerly of Totescore, but now of Solitote, Kilmuir, stated that he was past 78 years of age; that he was formerly a crofter, but that Captain Fraser all at once doubled his rent, which increase he most reluctantly agreed to pay. He was then asked to pay £1 more, which he naturally refused, after which he was forcibly evicted, and



his lot given to Mr. Macleod, the tacksman of Monkstadt, local factotum for Captain Fraser, who sent round word that any one who gave Nicolson a night's shelter would be treated in a similar manner next year. Having related how he was evicted from his home and lands, and turned outside, Nicolson continued—

“My son's wife and her two young children were with me, and we were all that night in the cart shed, and our neighbours were afraid to let us in, and were crying over us. There was plenty of meal outside, but we had no fire to make a cake. We lived in the stable all the summer. I could only erect one bed in it, and my daughter and my son's wife and two children slept in the bed, and myself slept on the stones. During a vacancy, the Presbytery of the Established Church allowed me to enter the glebe. After that I got refuge in the house of a poor woman at Duntulm, and the factor, Mr. Alexander Macdonald, Portree, challenged the tacksman of Duntulm for allowing this poor woman to keep me in her house. Mr. Grant, the parish minister, supports me now. That happened five years ago.”

The witness then appealed to Mr. Dugald Maclachlan, banker, Portree, who was present as interpreter, for confirmation of his story ; and at the request of Lord Napier, Mr. Maclachlan gave the following explanation :—

“After Nicolson was put out of his house he entered a cart-shed, and thereafter he entered the stable ; then he was evicted a second time, and an interdict taken out against him, forbidding him to enter for ever his dwelling-house, or at all to enter upon the lands, except for the purpose of preserving his crop, which Mr. Macleod had refused to take over with the croft. Under stress of circumstances, he entered the barn with his family. He was had up for breach of interdict, and for this breach of interdict was fined

10s. with the alternative of five days' imprisonment. The expenses of the interdict were £8. Then there was a year's rent due, and in addition to that he was charged with 'violent profits,' which means the doubling of the rent for remaining in possession after the term. The whole came to £35 odds, which the man paid."

Lord Napier—"But do you mean to say that that money was really exacted, and passed into the factor's hands?"

Mr. Maclachlan—"Yes. I arranged with the factor for him, and advanced the money out of the bank. When the markets came round he realised his stock, and paid me every penny of it."

In conclusion, Nicolson said that his family was all scattered now, but if he got a piece of land, although he was now 78 years of age, he would gather them again about him.

When Mr. Alex. Macdonald afterwards gave his account of Skye affairs, to the Royal Commissioners, at Portree, the case of the "Brave Old Crofter" was referred to. The burden of Mr. Macdonald's explanation was—

"That Nicolson was a litigious and disagreeable neighbour, who kept more stock than he was entitled to, and allowed his stock to stray on neighbouring lands. Many complaints were made of him. There was a decree got against him for about £55 3s. 2d., and off that he (Mr. Macdonald) struck voluntarily £25; that left £30, and against that he was credited with the value of his house and effects to the extent of £16. He had only the remainder, £14, to pay. The law expenses, so far as he personally was concerned, were £9 to £10. £6 was paid to sheriff-officers, and the remainder was put to the credit of the incoming tenant, who had been kept out of the croft for a considerable time."

This explanation did not agree with the statement made

by Mr. Maclachlan, who had corroborated Nicolson, at Uig; and at the close of his subsequent examination, at Portree, Mr. Maclachlan desired to make a further explanation regarding the case. He said that "he feared an impression had gone abroad that there was a discrepancy between the two statements. There were some outsiders who did not altogether understand the question."

Lord Napier—"I don't altogether understand it myself."  
(Laughter.)

Mr. Maclachlan stated that the whole sum of £35 11s. 8d. was paid to the landlord—and no portion of it was returned; and he produced a receipted account under Mr. Macdonald's hand, being a note of "Rent and violent profits and expenses due by D. Nicolson to Captain Fraser of Kilmuir". The note, which Mr. Maclachlan produced, was as follows :—

Rent and Violent Profits	...	...	...	£16	0	0
Expenses decerned for	...	...	...	4	18	8
Do. further	...	...	...	3	4	0
Extracting	...	...	...	0	10	6
Officer ejecting, and party	...	...	...	2	18	0
Expenses of Interdict proceedings	...	...	...	8	0	6
Total	...	...	...	£35	11	8
Less Valuation of House	...	...	...	15	17	6
Balance paid in cash	...	...	...	£19	14	2

The proprietor thus got the total sum of £35 11s. 8d. from Nicolson. Of that sum, £15 17s. 6d. was the valuation of Nicolson's own property, while the balance of £19 14s. 2d. was paid by Mr. Maclachlan (acting for Nicolson) to the factor, on 5th December, 1877, and for which he held the receipt produced.



Mr. Macdonald here said that "anything which was got for violent profits went to the incoming tenant to pay the damage which he was entitled to for not getting possession at Whitsunday. The proprietor got the rent, and nothing but the rent; and, of course, Mr. Maclachlan did not know that."

Mr. Maclachlan—"Of course, I don't; but Nicolson paid to you, in the first place, the sum that I have mentioned."

Lord Napier, to Mr. Macdonald—"Have you any other statement to make? Nicolson's statement was that his rent had been doubled, and that he was willing to stick to his land for all that, but that he was charged £1 more, which—really was the straw that broke this tenant's back."

Mr. Macdonald—"That was his statement, but we deny it. It was for his own misconduct that we put him out."

Lord Napier—"Was Nicolson's rent doubled?"

Mr. Macdonald—"It was, my lord."

Lord Napier—"Now, Mr. Macdonald, why was his rent doubled?"

Mr. Macdonald—"It was doubled when all the other rents were doubled." (Great Laughter.)

Lord Napier—"Were all the other rents doubled?"

Mr. Macdonald—"His rent was doubled like all the other rents of that township, and it was according to the valuation of Mr. Malcolm, Nairn. This man was evicted for his own misconduct."

The Chairman—"Mr. Maclachlan alluded to a model eviction on another estate—a case in which all the tenants petitioned the proprietor to have a certain tenant removed. Now, was the case of this poor man Nicolson as bad as that one?"

Mr. Macdonald—"I think it was a worse case—"("Oh")—or, at least, fully as bad." (Laughter.) Mr. Macdonald

added "that the other tenants complained of this crofter (Nicolson), but he himself had no ill-will towards him. He thought, however, his eviction was perfectly justifiable."

Mr. Maclachlan "had no doubt it would involve a long inquiry to prove Nicolson's misconduct; but he would say that the impression which this eviction left on his mind, at the time was, that it was a most high-handed and arbitrary exercise of the landlord's legal rights." (Loud applause.)

Mr. Macdonald—"That was only your impression."

Lord Napier—"We are quite sure that in this matter Mr. Maclachlan acted a most honourable and humane part according to his judgment." (Loud applause.)

An incomplete account of this shameful story appeared in almost every newspaper and in every language in Europe. It has been the theme of conversation and adverse criticism in every club and household in the kingdom, and further comment here is quite unnecessary. The mere record of the facts is enough to make every freeborn Briton blush for the fair fame of his native land.

#### EVICITION RESULTS IN SKYE.

These Skye evictions affected directly some seven hundred families, each, on an average, representing at least five persons, and making a grand total of more than three thousand five hundred souls, not less than two thousand of whom were evicted, during the last half century, from the property of MacLeod of MacLeod! What physical misery, what agony of soul these figures represent, it is impossible even to imagine! The number of those removed in Skye, as elsewhere, from one portion of the island to another,—even from one part of an estate to another,—can never be ascertained; and the misery and loss endured by

these can only be surpassed by the misfortunes of those who had been forcibly driven from their native land altogether ; though that unfortunate class are usually left out of account when the more drastic and complete forms of eviction are written or spoken of. There is also another class who were, and are being, deprived of their hill pasture and left to comparative starvation, with their cattle, on wretchedly small and unprofitable arable patches among the barren rocks on the sea-shore. And all this misery and agony to gratify the inhuman selfishness of some two or three persons who, by the mere accident of birth, enjoy a power which they could never have secured for themselves !

One of the results brought out by the evidence submitted to the Royal Commission in Skye is, that nearly all the meal mills that used, in great numbers, to be constantly employed twenty to fifty years ago, have fallen into decay or are lying completely idle in consequence of the evictions and of the best portions of the Island having been laid waste to make room for large sheep farms. These silent and dilapidated buildings now proclaim the sad truth respecting the once prosperous inhabitants of the famous and soldier-producing Island more eloquently than pen can possibly record.

#### RENT OF BEN LEE PAID.

In reference to the correspondence published at pp. 101-106, and the settlement of the dispute between the Braes Crofters and Lord Macdonald, described at page 114, it may be right to state that Mr. Malcolm Mackenzie, while not admitting any claim whatever upon him, after Lord Macdonald's refusal of his generous offer to pay two years' rent for the Braes Crofters, on the conditions set forth in his published letters, already referred to, decided upon

making a very substantial gift to the people of the Braes. With this object he requested me to proceed to the district; to pay a year's rent of Ben Lee, amounting to £74 15s.; and to distribute £25 5s. in meal and money, making a sum of £100 in all, among the most necessitous of the inhabitants of the three townships of Gedintaillear, Balmeanach, and Peinichorain; and these instructions were duly carried out in February last. The rent being after-hand, the tenants will thus, through the generosity of Mr. Mackenzie, have the use of Ben Lee for two years before they can be called upon to pay any rent whatever for it out of their own earnings.

In support of the claim made by the people of the Braes, it may not be inappropriate to quote here from a letter published by Macleod of Macleod in the northern Newspapers in July last. He says, that "Ben Lee was *a Common*, and as is well known, what is common to all is of little value to any". What are the statements and denials by Lord Macdonald and his representatives of the peoples' rights to this Common worth, after this damaging admission by Macleod?

#### LIBERATION OF THE GLENDALE MARTYRS.

The three Glendale crofters imprisoned for two months in the Calton jail, Edinburgh, for breach of interdict were liberated on 15th May, at 8 A.M., when they were met at the door by about 1000 people, headed by two pipers, who marched to the Ship Hotel, and there entertained the liberated men to a public breakfast. The same evening John Macpherson, after visiting his friends in Glasgow, proceeded to Skye, by Strome Ferry, that he might reach Glendale in time to be examined by the Royal Commission on the

following Saturday. It became known in Skye that he was coming, and the Portree and Braes people determined to give him a hearty reception. As the "Clydesdale" approached the Braes, three bonfires were noticed a-blaze, and several flags were flying aloft, in the distance. When the steamer rounded into Portree Bay, a large crowd congregated on the pier, while numbers were flocking from all parts of the village in the same direction. Macpherson having been observed on deck, the crowd cheered vociferously, while hats were raised and handkerchiefs waved by the assembled multitude. Before he could place his foot on shore he was raised on the shoulders of four stalwart fellows, who carried him aloft, hat in hand, bowing to the crowd, amid the enthusiasm of the people, to the Portree Hotel, a piper leading the way, playing appropriate airs. Macpherson, on his arrival at the hotel, addressed the people, warmly thanking all his friends and the friends of the people of Skye, north and south, and urging upon his countrymen to insist upon getting justice now that it was within their reach. "If Joseph," he said, "had never been sent into Egyptian bondage, the children of Israel might never have got out of it." He believed the imprisonment of the Glendale crofters had done more to remove landlord tyranny and oppression from Skye than anything which happened during the present century. He was afterwards entertained in the hotel by many of the leading inhabitants of Portree, where several of the Braes men came all the way to pay honour, on his return from prison, to one whom they esteemed as the leading martyr in the crofter cause.

An attempt to arrive at an amicable settlement has recently been made by the proprietor of Glendale, who personally approached his tenants after all the mischief recorded in this book had been completed, and since the Royal Com-



mission visited the glen ; and it was heralded forth, in inspired quarters, that a settlement of the question in dispute had been finally arranged. Though this is not the case, as yet, it is gratifying to find that negotiations have been entered upon, and that no attempt at evictions followed on the notices of removal served by registered letters in April last. (See pp. 144-145.) The settlement proposed, according to an excellent authority, writing from the spot, on the 11th of July, is as follows:—

“Waterstein,” he says, “is one of the finest grazings, or arable lands, in the Island. The proprietor only intends to give the crofters a narrow strip off the worst end, about 150 yards wide, and about a mile in length ; and preparations are being made to fence this off. Dr. Martin was paying £133 rent for the whole of it ; the section offered to the crofters is only one-fifteenth of the whole, and is at the worst end, being chiefly heather. The rent asked for this strip is £33. I am told that the crofters naturally refused this, but offered to take the whole at the same rent that Dr. Martin paid for it. The proprietor refuses to accept this offer ; the crofters are withholding their rents, but little or nothing is going on now in the way of negotiation, as the men are away at the fishing.”

This is how the matter stands as we go to press.

#### THE “SCOTSMAN” IN THE SCALES.

The one-sided position taken up by the *Scotsman* in connection with this question, can easily be gathered from what appears in the body of the book, especially at pages 135 to 143 ; but it may be added, as a further illustration, that its representative, while reporting the proceedings of the Royal Commission in the Lewis, was driven about the Island, and to the meetings of the Commission, by Lady Matheson’s Chamberlain, while the other reporters had to provide carriages in the usual way, at their own expense ; and that he was entertained as the guest of the Chamber-



lain's principal Accountant while in Stornoway. It may further be added, that this reporter concocted and sent the most unfounded falsehoods to his journal, regarding my own sayings and doings in the Isle of Skye, during my visit to the Island, on a recent occasion, and that his journal maintained its character for partiality and unfairness, by refusing to insert a correction of the false statements so meanly manufactured and sent to him by his own reporter.

If any further evidence be necessary, to prove the inexplicably one-sided unscrupulousness of the *Scotsman* under its present management, it will be found in the following:— On the 20th of July last, it published a letter, from Macleod of Macleod, on “Highland Land Rights,” in which he quotes a paragraph from a speech delivered by Dr. Cameron, M.P., for Glasgow, at a meeting of the Federation of Celtic Societies, held in Liverpool, on the 2nd of January, 1883, and charges me with using similar and even stronger language in the Isle of Skye. The quotation from Dr. Cameron is as follows :—

“Before the '45 rising the tenants in the Highlands had distinct proprietary rights on the land they cultivated, and the chiefs were looked upon as the trustees for the clans. But after '45 the feudal system was introduced, the tenants lost their rights, and the landlords were made the absolute proprietors of the land. In Scotland there was provision made for the registration of titles to land ; but the very existence of that registration had the effect of quickly getting rid of the proprietary interests of the tenants. The landlords, of course, registered their titles, but the crofters knew nothing about the system of registration, and took no trouble to register the rights they had in the land.”

What Macleod said regarding myself, and my comments thereon, will be found in my reply addressed to the *Scotsman*, but, consistently with that journal's characteristic lack of fair-play towards the crofters and their friends, it was refused insertion. The *Scotsman* has on repeated

occasions misreported my remarks, and then honoured me by criticism, in his leading articles, on what I never did say. He cannot, in point of fact, afford to allow the truth to appear in his columns, as to what the crofters' friends say and do, and at the same time, make an outward appearance of decency and apparent truthfulness in his abuse of them for what they neither say nor do. Here is my reply to Macleod which the *Scotsman*, for these and other reasons of his own, would not insert :—

### HIGHLAND LAND RIGHTS.

TO THE EDITOR OF THE "SCOTSMAN".

"CELTIC MAGAZINE" OFFICE, 2nd Aug., 1883.

SIR,—Having been from home for the last fortnight, I have hitherto been unable to notice Macleod of Macleod's letter on the above subject, which appeared in your issue of 20th July last. I expect that you will, on the simple grounds of fairplay, permit me to do so now, though my doing so may seem somewhat late.

Having given a quotation from the speech delivered by Dr. Cameron, M.P., at Liverpool, on the 2nd of January last, as to the respective rights of landlords and tenants to the soil in the Highlands, Macleod proceeds :—"I should not have quoted this remarkable statement, for which there was no foundation whatever, were it not that similar language has been used lately by Dean of Guild Mackenzie, who has gone through Skye in advance of the Commission, assuring the people that the land belonged to them, and that, with a view to its recovery, they should represent their condition to the Commissioners as one of extreme hardship and suffering, and their proprietors as heartless oppressors." This whole statement by Macleod regarding me, my doings and sayings, is simply and absolutely untrue. For this, however, I do not hold him responsible, except in so far as he has unwittingly accepted the statements of some underling flatterer, who must have drawn upon his imagination as to what I was saying and doing in the Isle of Skye. I *know* that Macleod was not in the island when I was there, and, therefore, he could not have had any personal knowledge of the subject upon which he wrote.

I cannot but feel flattered that Macleod should consider my sayings of more importance than Dr. Cameron's, M.P. ; and as others, as well as he, may possibly care to know how the facts really stand, permit me

to say that I not only disapproved of Dr. Cameron's statement, as quoted by Macleod, but that a few days after it was made, I publicly said so in presence of one of the Royal Commissioners, Sir Kenneth S. Mackenzie of Gairloch, Baronet, who, on the occasion, presided at the annual dinner of the Gaelic Society of Inverness, when I had the honour of occupying the opposite end of the table. I then pointed out the mischief that such crude and inaccurate statements were likely to lead to, and stated that most Highland proprietors held charters for the last four or five hundred years, as I myself had shown in my histories of the Macdonalds and Mackenzies, and, more recently, in my "*History of the Camerons*," now passing through the *Celtic Magazine*.

It is quite possible that what I did say regarding the rights of landlords and tenants to the land would not be of sufficient interest to the general public to justify me in asking you to publish it. I may, however, be permitted to state that I hold the rights of the landlords to be *legally* unassailable, and that I said so in Skye and elsewhere, as well as that I would not, even in the public interest, deprive them of a sixpence worth without full compensation for the agricultural value of their estates. I, however, hold very decided views as to the *natural* rights of the people to live in their native land as against the *legal* rights of the landlords to evict them. I have openly given expression to these views, and I shall not rest satisfied until the legal rights of the landlords are brought into harmony with the natural rights of the people by Act of Parliament. I shall soon have an opportunity of stating more fully, before the Royal Commission, what my views on that most important subject are; meanwhile I trust that you will insert this in your next issue.—I am, &c.,

ALEX. MACKENZIE.

P.S.—When men in Macleod of Macleod's position make such reckless and unfounded statements in your columns, people should hesitate before charging the less-favoured crofters with wilful misrepresentation in detailing their grievances to the Queen's representatives. They cannot all, like me, call a Royal Commissioner to their aid to rebut the baseless charges made against them. A. M.

I am not, however, without hopes as to the future of the *Scotsman* on the Crofter question. As soon as he finds that his ravings are ignored by the Liberal Government of the day, so soon the *Scotsman* will ponderously support the Government and turn his back upon himself, as he has done in the past, with scarcely an exception, in similar circum-

stances. It, however, requires more talent than the editorial department at present commands to ensure success in so delicate an acrobatic performance, and, probably, rather than expose himself too glaringly he will make a further and stronger effort to maintain his consistency in a career of abuse and misrepresentation of the Highland people.

The following extract from a letter published in the *Scotsman* on May 21st, 1881, when the Irish Land Bill was before Parliament, in reply to some "leading" criticism in connection with the Leckmeln Evictions, will be found as truly descriptive of his position now as it was then :—

You have consistently opposed the principle of State interference between landlord and tenant—any restriction of the right to enter into private contracts—until the Liberal Government threw your principle to the winds, in such as the Ground Game Act of last year, and now the Irish Land Bill. You were then equally consistent with your past history in support of the Government and inconsistent with yourself. If a principle is sound in Ireland it is equally so in Scotland. If you give up the principle in Ireland, I must ask you to do so here, if it can be shown that the circumstances are similar, or in proportion to the extent in which they are so. What, then, becomes of your proposition "that land, like gold, ought to be left to the laws of supply and demand," and that no one ever thought that the possessor of it "should be compelled to part with it for less than the price which it would fetch in a free and fair market?" The present Government say exactly what you state no one would think of saying or doing, and you ably support them to get a Bill passed for Ireland by which the owners of land shall be restricted in letting their land for what it would "fetch in a free and fair market". This was clearly brought out by Mr. Gladstone in his able speech on the Bill on Monday last. He boldly stated and clearly proved that the market value of land was in many cases an unfair one, and far higher than its real value. He is making provision accordingly in his Irish Land Bill. What is good for Ireland in this respect cannot be very bad for the Highlands of Scotland, and I expect to see the powerful influence of the *Scotsman* one day wielded in favour of a Government measure for this country, as it is now wielded in favour of an Irish Bill founded on a principle which the *Scotsman* has always consistently condemned.

You describe the contention that the country requires men, and that by abolishing small holdings they are being exterminated, as "non-sense". The facts are against you. The men are exterminated, so far as this country is concerned, when they are evicted; for most of them emigrate, and the recent census shews that the Highlanders in the Highlands are being, to all intents and purposes exterminated, and that the population is rapidly decreasing. Therefore, if it is a good thing to have the men, evictions must be bad, and should be checked. If the men are of no value, the case is altered.

I have no personal knowledge of the miseries of small tenants in Connaught [to which you refer], though I believe such chiefly prevails among the cottars who have no land. I know something about the state of the Highlands, and I carefully read the letters of your own "Special Commissioner" a few years ago. If we believe him, he seems to have found misery enough, though, in my opinion, he, in many cases, overstated it. No one ever suggested that the Highlanders should be crowded on the land. They are overcrowded already in patches close to the sea-shore. What is proposed is, that they should be spread over the straths and beautiful glens from which they were evicted to make room for sheep and deer.

And here let me say what I have often said privately, that sheep and sheep farmers are almost entirely responsible for the Highland evictions. The people were driven away to make room for sheep, and it seems now that retribution is fast overtaking the original sinners by their being in turn gradually driven out by sportsmen and deer forests. These will also have their day, and I trust and believe that man will yet take his proper place and occupy his fair share of the land. Even then there will be plenty room for real sport and for a sufficient supply of sheep.

I am not sure that I could even now write anything more accurate or appropriate than this extract, and time will show that I have accurately gauged and described in it the true position of the *Scotsman*, not only as regards the past, but also as to his future position respecting the Highland Crofters.



## PATRICK SELLAR'S TRIAL.

Shortly after my "Highland Clearances" appeared, Mr. Thomas Sellar, eldest son of the late Patrick Sellar, complained that I did not make enough of the fact that his father was acquitted of the charges of Culpable Homicide and Fire-raising in the Inverness Court of Justiciary. I have since published a report of the trial separately, and it is reproduced in full in this volume. I trust that Mr. Sellar will be satisfied with the circulation I have secured for it. I am perfectly content to leave the public to judge of the whole question in dispute from this report of the trial. Mr. Sellar would have been much better to have let sleeping dogs lie, but that is his affair. He has chosen to publish a book in reply to those who believe that his father was largely responsible for the Sutherland Clearances. He has as completely failed in his object, as he would have failed in an attempt to turn the ocean into dry land. His book answers itself. By its publication, he has, however, challenged further discussion of the whole question in dispute.

A valued correspondent, well acquainted with the history and traditions of Sutherland, oral and written, on seeing an intimation that such a book was forthcoming, wrote to me as follows:—"I see the Sellars are moved against you for exhibiting the part their famous father took in the atrocities committed in Sutherland; that one of them is to write a book in vindication of their father! Well, I have heard a fetish, to wit, that 'a clear-eyed person could distinguish the dust of the righteous from that of the wicked in the same grave; that the dust of the former lay still, but in that of the latter there was a perpetual vermicular motion which prevented it taking rest or being still'. It would appear that the memory of the unenviable Sellar is doomed



to this endless restlessness. No learning, no literary skill, or power, no wealth, no ducal influence, can prevent that name going down to posterity otherwise than as an example to be avoided, a character to be shunned." After detailing various incidents connected with the Sutherland Clearances, my correspondent gives an account of a lively colloquy which is reported to have taken place between Sellar and Colonel Mackay of Pitfure, Strathfleet, who demanded an interview with him on the subject of the burning of the houses in Strath Brora, and tells how the Colonel was instrumental in putting a stop to them, with the result, as he says, that "a good part of Strathfleet was saved from the catastrophe that fell on the whole of the other Straths ; and to-day," he writes, "Strathfleet is a happy and prosperous contrast to the ruin and loss that reign elsewhere in the county of Sutherland". He then exclaims, "Such is a specimen of the accounts of Mr. Sellar which are handed down from father to son, wherever a Sutherland man is to be found. And now the public character of this man is to be thatched with legal technicalities so as to make him appear a just and humane man ! This will be accomplished when the world is made to believe that Ahab did justly in getting possession of the vineyard of Naboth. *Before* this promised book, justifying Mr. Sellar, comes out, I would give the following review of it: nine-tenths of Sutherland was reduced to a wilderness, the inhabitants burnt out as vermin. Of this fact, there is no doubt, no possible dispute. Who did it ? Earl Gower, the Countess of Sutherland, Mr. Loch, and their most active lieutenant, Mr. Sellar. It would be difficult, at this time of day, to balance the blame fairly between them, but almost all will conclude that Mr. Sellar's was not the least of the four. Let them divide the guilt between them ; each of them will

find his own share too much to bear." Here I, at least, am satisfied, at present, to leave Mr. Sellar and his book.

#### LORD NAPIER AS CHAIRMAN OF THE ROYAL COMMISSION.

In view of what has been said and written, when the Royal Commission was appointed, and especially of what appears at pp. 150-152 of this book, I have much pleasure in acknowledging here the absolutely impartial and searching manner in which the grievances of the people have been inquired into, hitherto, under the guidance of the noble chairman, Lord Napier and Ettrick, who has not only proved himself possessed of the necessary qualifications—impartiality, knowledge of the subject, and a remarkable patience—for such a responsible and difficult position, but has, at the same time, exhibited an insight into the whole question of the Inquiry which has no less surprised than it has gratified the Crofters and their friends. His conduct as chairman has been in all respects unexceptional, a fact for which he deserves the universal gratitude of the Highland people at home and abroad.

It would be at present invidious to make special reference to other individual members of a Commission which has, in its corporate capacity, done its work so well. This will be in good time when the Inquiry is completed and the Report issued.

A. M.

25 ACADEMY STREET, INVERNESS,  
*22nd August, 1887.*

THE ISLE OF SKYE IN 1882-1883.



## THE ISLE OF SKYE IN 1882.

### THE BRAES CROFTERS AND LORD MACDONALD.

No evictions have yet taken place in consequence of the social revolution which has, during 1882-3, directed the attention of the world to the position of landlord and tenant in the Isle of Skye. Considerable space must, however, be devoted to what has already occurred. The writer went over the ground, and he has carefully considered the whole question. The following statement was published by him, on his return from the Island, in the *Celtic Magazine* for May 1882, and he has not hitherto found it necessary to modify a single sentence of what he then wrote, though he has watched all the proceedings which have since occurred—including the evidence given at the trial of the Braes crofters—with great care. Indeed, it has been admitted by those more immediately concerned on the landlords' side, that his account was exceedingly moderate in tone, carefully couched in temperate language, and accurately stated in all its details. It is as follows:—

That we were, and still are, on the verge of a social revolution in Skye is beyond question, and those who have any influence with the people as well as those lairds and factors who have the interests of the population virtually in their keeping, will incur a very grave responsibility at a critical time like this, unless the utmost care is taken to keep the

action of the aggrieved tenants within the law, and on the other hand grant to the people, in a friendly and judicious spirit, material concessions in response to grievances regarding any hardships which can be proved to exist.

It is quite true that, though innumerable grievances unquestionably do exist, no single one by itself is of sufficient magnitude to make a deep impression on the public mind, or upon any mere superficial enquirer. It is the constant accumulation of numberless petty annoyances, all in the same direction, that exasperate the people. The whole tendency, and, it is feared, the real object of the general treatment of the crofter is to crush his spirit, and keep him enslaved within the grasp of his landlord and factor. Indeed, one of the latter freely admitted to us that his object in sometimes serving large numbers of notices of removal, which he had not the slightest intention of carrying into effect, was that he might "have the whip-hand over them". This practice can only be intended to keep the people in a constant state of terror and insecurity, and it has hitherto succeeded only too well.

The most material grievance, however, as well as the most exasperating, is the gradual but certain encroachment made on the present holdings. The pasture is taken from the crofters piecemeal; their crofts are in many cases subdivided to make room for those gradually evicted from other places—in a way to avoid public attention—to make room for sheep or deer, or both. The people see that they are being gradually but surely driven to the sea, and that if they do not resist in time they will ultimately, and at no distant date, be driven into it, or altogether expelled from their native land. A little more pressure in this direction, and no amount of argument or advice will keep the people from taking the law into their own hands and resisting it by



force. The time for argument has already gone. The powers that be has hitherto refused to listen to the voice of reason, and the consequence is that scarcely any one can now be found on either side who will wait to argue whether or not a change is necessary. It is admitted on all hands that a change, and a very material change, must take place at no distant date, and the only question at present being considered in the West at least, is, What is to be the nature of the change? This is what we have now been brought face to face to, and, however difficult the problem may be—and it is surrounded with endless difficulties on all sides—the change must come; and it is admitted all round that the day when it shall take place has been brought much nearer by the inconsiderate action and unbending spirit of those at present in power in the Isle of Skye. This is now seen and admitted by themselves. In short, a great blunder has been committed. This opinion is almost universal in the Island, and it will be a crime against owners of land, against the interests of society, and against common sense, if the blunder is not at once rectified by the good sense of those who have it in their power to do so. The error will soon be forgotten if rectified with as little delay as possible; and the class of men who are willing to sacrifice their own ideas of self-importance to confer a great boon upon society is so limited, that we appeal with no slight confidence to Lord Macdonald's factor to retrace his steps, and arrange a settlement with his people in the Braes; and thus assuredly raise himself to a higher position in public estimation than he has ever yet occupied, with all his power; and at the same time become an example for good to others. He can do all this with the less difficulty, seeing that not a single one of the grievances of the Braes tenants were originated since he became factor on the Macdonald estates, and that

the only thing with which he can fairly be charged in connection with them was a too imperious disinclination to listen to the people's claims, and that he had not fully and sufficiently early enquired into the justice of them. On his prudence very much depends at present the amicable settlement of a great question, or at least the shape which the present agitation for the settlement of the relations of landlord and tenant in the Highlands will ultimately take.

We believe that the sad consequences of the recent proceedings against the Braes tenants is deplored by himself as much as by any in the Isle of Skye, where the feeling of regret and shame is universal among the people, from the highest to the lowest, irrespective of position or party.

There is a very strong feeling that the law must be maintained ; but the opinion is very generally expressed that the people ought not on this occasion, and in the present state of the public mind, to have been brought into contact with the criminal authorities ; and that by a little judicious reasoning this could have been very easily avoided. We quite agree that the law must not only be respected, but firmly vindicated, when occasion demands it ; but at the same time the owners of land who press hard upon their poor tenants are living in a fool's paradise if they expect that harsh laws, harshly administered, will be allowed to stand much longer on the statute-book if such as the recent proceedings at the Braes are to be repeated elsewhere throughout the country. Just now the facts of history deserve careful study, and we trust that the lessons they teach will not be thrown away on those more immediately concerned in maintaining their present position in connection with the land.

An attempt has been made to show that the Braes tenants have no real grievances ; and our own opinion before we went to examine them on the spot was, and it is so still,

that they are, from a legal standpoint, in a far worse position to assert their claims than the tenants of Glendale, Dr. Nicol Martin's, and other proprietors on the Island. We are now satisfied, however, that they have very considerable grievances from a moral standpoint, and no one will dispute that grievances of that kind are generally as important, and often more substantial and exasperating than those which can be enforced in a court of law.

The Braes tenants maintain that in two instances considerable portions of their lands have been taken from them without any reduction of rent, and their contentions are capable of legal proof.

I. There is no doubt at all that they had the grazings of Benlee—the original cause of the present dispute—down to 1865, when it was taken from them and let to a sheep farmer as a separate holding. It can be proved that Lord Macdonald paid them rent for a small portion of it, which he took into his own hands for the site of a forester's house and garden. It can also be proved that it was not a "common" in the ordinary acceptation of that term, though it is called so in a map made by a surveyor, named Blackadder, who, in 1810, divided the crofts from the run-rig system into ordinary lots, while the grazings of Benlee continued to be held *in common* as before. The Uist people, and others from the West, paid a rent for the use of it to the Braes tenants when resting their droves on their way to the Southern markets.

II. The townships are, or were, divided into seven crofts, occupied by as many tenants, and an eighth, called the shepherd's croft, which that necessary adjunct to a common or club farm received in return for his services. The shepherd's croft has been since withdrawn, and let direct by the factor to an eighth tenant, and that without any reduc-

tion of rent to the other seven crofters in each township, while they have now to bear the burden of paying their shepherd from their own resources. This is a virtual raising of the rents, without any equivalent, by more than  $13\frac{1}{2}$  per cent., altogether apart from the appropriation of Benlee.

These grievances took shape long before the present factor came into power, and he himself has stated that it was only since the present agitation began that he became even acquainted with the complaint regarding the shepherds' crofts. For townships to have such a croft is quite common in the Island, and the practice is well known and understood.

It has been stated that the rents are now not higher than they were in 1810, but, apart from the fact that Benlee and the eighth croft have since been taken away, why compare the present with 1810, a time at which, in consequence of the wars of the period, and the high price obtained for kelp, rents and produce of every kind were very high. The rental of Lord Macdonald's Skye property, we understand, was £8000, while in 1830, it fell to £5000, but no corresponding reduction was made in the Braes. The tenants maintain that they have repeatedly claimed Benlee, and that the late factor told them if they had been firm when the previous lease expired, they would have got it, though whether with or without rent was not stated. This is admitted, though different views were held by each as to the payment of rent—the tenants expecting they were to get it in terms of their request, without any payment, while the factor says that he meant them to get it on payment of the then rent. In any case it is impossible that they can now obtain a decent livelihood without additional pasture for their stock, for they have been obliged to allow a great portion of their arable land to run into waste, to graze their cattle upon it. They

are willing to pay some rent for Benlee, and it is to be hoped, in all the circumstances, that the factor will meet them in a liberal spirit (as he can, without difficulty, get the lands from the present tenant at Whitsunday next),\* and thus avoid further heart-burnings and estrangements between the landlord and his tenants. That they have moral claims of a very substantial character cannot be disputed, and the mere fact that the lands have been taken from them so long back as 1865, can scarcely be pleaded as a reason why this state of matters should be continued. It has indeed been suggested, with some amount of apparent justice, whether in all the circumstances the people have not a moral claim to a return of the value of Benlee for the period during which it has been out of their possession, seeing that they still have the arable portions and part of the grazings of their original holdings.

#### GLENDALE.

We visited this property, some 30 to 35 miles from Portree, and 7 to 12 miles from Dunvegan, accompanied by the special commissioners for the *Aberdeen Daily Free Press*, the *Dundee Advertiser*, and the *Glasgow Citizen*. The whole surroundings of Glendale at once indicate a more than average comfortable tenantry, indeed, the most prosperous, to outward appearance, that we have seen in the North-West Highlands. The estate is owned by the Trustees of the late Sir John Macpherson Macleod. The people are remarkably intelligent and well informed, and their grievances place those of the Braes men entirely in the shade. The following account of them and their position generally, largely from Mr. William Mackenzie's account in

\* This was written in April, 1882.



the *Free Press*, and taken down in the presence of the writer, may be accepted as a true statement of their case :—

While the people are thoroughly firm in their demands, it would be a mistake to call their attitude and actions a “no rent” agitation. They are all alive to their obligation to pay rent to the landlord, and where rent is withheld that is done, not in defiance of the landlord’s rights, but as the best, and perhaps the only, means they can devise to induce the landlord to consider the claims and grievances of the people. The estate managed by the trustees of the late John Macpherson Macleod consists of about a dozen townships. According to the current valuation roll, lands, etc., of the annual value of £400 9s. are in the occupancy of the trustees. Dr. Martin pays £133 for Waterstein, and the shooting tenant pays £140. The ground officer pays some £30 for lands at Colbost, while the rest of the estate is occupied by crofters, who among them pay a rent of about £700. The extent of the estate is about 35,000 acres. Ten years ago the rent was £1257, while now it is £1397 odds, shewing a net increase on the decade of £139 16s. 1d. or slightly over 11 per cent.

The tenants complain that the different townships were deprived of rights anciently possessed by them ; that some townships were by degrees cleared of the crofters to enable the laird or the factor to increase his stock of sheep, and that such of these people as did not leave the estate were crowded into other townships, individual tenants in these townships being required to give a portion of their holdings to make room for these new comers. They also complain of the arrogant and dictatorial manner in which the factor deals with them. So the Glendale crofters, wearied for years with what they have regarded as oppression, have now risen as one man, resolved to unfold before the public gaze



those matters of which they complain, and to demand of their territorial superiors to restore to them lands which at one time were occupied by themselves and their ancestors, to lessen, if not to remove, what they regard as the severity of the factor's yoke, and generally to place them in that position of independence and security to which they consider they are fairly and justly entitled. The functions performed by the factor of Glendale are exceedingly varied in their character. He is, they say, as a rule, sole judge of any little dispute that may arise between the crofters. He decides these disputes according to his own notions of right or wrong, and if anyone is dissatisfied—a not uncommon occurrence even among litigants before the Supreme Courts—the dissatisfied one dare not carry the matter to the regularly constituted tribunals of the land. To impugn the judgment of the factor by such conduct might entail more serious consequences than any one would be disposed to incur, and, further, the extraordinary and mistaken notion appears to have prevailed that if any one brought a case before the Sheriff Court the factor's letter would be there before him to nonsuit him. This factorial mode of administering the law is probably a vestige that still lingers in isolated districts of the ancient heritable jurisdiction of Scotland; and it is only right to state that Glendale is not the only place in the Highlands where the laird or the factor have been wont to administer the law. Among the privileges which the Glendale people formerly possessed was the right to collect and get the salvage for timber drifted from wrecks to the shore. Of this privilege it was resolved to deprive them, as may be seen from the following written notice which was posted up at the local post-office, the most public part of the district:—

Notice.—Whereas parties are in the habit of trespassing on the

lands of Glendale, Lowergill, Ramasaig, and Waterstein, in searching and carrying away drift timber, notice is hereby given that the shepherds and herds on these lands have instructions to give up the names of any persons found hereafter on any part of said lands, as also anyone found carrying away timber from the shore by boats or otherwise, that they may be dealt with according to law.—Factor's Office, Tormore, 4th January, 1882.

The lands over which they were thus forbidden to walk, consist mainly of sheep grazing, in the occupation of the trustees, and managed for them by the factor. The people were also forbidden to keep dogs.

These notices, it is stated, had the desired effect ; trespassing ceased, and the crofter, with a sad heart, destroyed his canine friend. Grievances multiplying in this way, it was resolved by some leader in the district to convene a public meeting of the crofters to consider the situation. The notice calling the meeting together, was in these terms :—

We, the tenants on the estate of Glendale, do hereby warn each other to meet at Glendale Church on the 7th day of February, on or about one P.M., of 1882, for the purpose of stating our respective grievances publicly, in order to communicate the same to our superiors, when the ground-officer is requested to attend.

Such a revolutionary movement as this, the people actually daring to meet together to consider their relations with the laird, and make demands, was not to be lightly entered upon, and it need not be wondered at if some of them at first wanted the moral courage to come up to the occasion. If any one showed symptoms of weakness in this way he was encouraged, and on the appointed day the clansmen met and deliberated on the situation. At that meeting their grievances received full expression. It was in particular pointed out that the township of Ramasaig, which fifteen years ago was occupied by 22 separate crofters, is now

reduced to two, the land taken from or given up by the other twenty families having been put under sheep by the factor. The people, who presumably were less valuable than the sheep, in some cases left the country altogether, while those that remained were provided with half crofts on another part of the estate.

For instance, a crofter who perhaps had a ten pound croft, say, at Milivaig was requested to give up the one-half of it to a crofter removed from Ramasaig, a corresponding reduction being made in the rent. In this way, while the sheep stocks under the charge of the factor were increasing, the status of the crofters was gradually diminishing, and the necessity for their depending more and more on other industries than the cultivation of their croft was increasing. To illustrate this all the more forcibly, we may state that the crofters at Ramasaig had eight milk cows and their followers, and about forty sheep on each whole croft—together over a hundred head of cattle and from 300 to 400 sheep. Lowerkell was similarly cleared. At the meeting of the crofters, to which I have alluded, it was resolved that, as a body, they should adopt a united course of action. They were all similarly situated. Each man and each township had a grievance, and no individual was to be called upon to make a separate claim. Each township or combination of townships was to make one demand, and if any punishment should follow on such an act of temerity, it should not be allowed to fall on any one person, but on the united body as a whole. To guard against any backsliding, and to prevent any weakling or chicken-hearted leaguer (if any should exist) from falling out of the ranks, they, one and all, subscribed their names in a book, pledging themselves as a matter of honour to adhere in a body to the resolution thus arrived at. The scheme having thus been

formulated, each township or combination proceeded to get up petitions embodying their respective cases, and sending them to the trustees, Professor Macpherson, of Edinburgh, and his brother.

The tenants of Skinidin claim two islands, opposite their crofts, in Loch Dunvegan. Apart from this, they complain that they do not get the quantity of seaweed to which they were entitled. This may appear to some a small matter, but to the cultivator of a croft it is a matter of great importance, for seaware is the only manure which he can conveniently get, excepting, of course, the manure produced by his cows. The quantity of ware promised to the Skinidin crofters was one ton each, but the one-half of it, they say, was taken from them some time ago, and given to the "wealthy men" and favourites of the place. The result is that they have to cross to the opposite side of Loch Dunvegan and buy sea-ware there at 31s. 6d. per ton. This is not only an outlay of money, which the poor crofters can ill afford to incur, but it also entails great labour, which is attended with no inconsiderable danger to life. The crofters accordingly demand the quantity of ware to which, they say, they are entitled.

The Colbost tenants, to the number of twenty-five, also sent in a petition, in which they complained of high rents, and stated that owing to incessant tilling the land is becoming exhausted, and ceasing to yield that crop which they might fairly expect. In 1848, they say they got Colbost with its old rights at its old rent with the sanction of the proprietor. The local factor, Norman Macrauld, subsequently deprived them of these privileges, while the rents were being constantly increased. They accordingly demand that their old privileges should be restored, and the rents

reduced to the old standard, otherwise they will not be able to meet their engagements.

We shall next take the petition of the Harmaravirein crofters. The place is occupied by John Campbell, who pays £9 15s. 4d.; John Maclean, £5 3s. 4d.; John Mackay, £6 2s. 8d.; and Donald Nicolson, £4 12s. The petition, which was in the following terms, deserves record :—

We, the crofters of Harmaravirein, do humbly show by this petition that we agree with our fellow-petitioners in Glendale as to their requests. We do, by the same petition, respectfully ask redress for grievances laid upon us by a despotic factor, Donald Macdonald, Tormore, who thirteen years ago for the first time took from us part of our land, against our will, and gave it to others, whom he drove from another quarter of the estate of Glendale, to extend his own boundaries, and acted similarly two years ago, when he dispersed the Ramasaig tenantry. We, your humble petitioners, believe that none of the grievances mentioned were known to our late good and famous proprietor, being an absentee, in whom we might place our confidence had he been present to hear and grant our request. As an instance of his goodwill to his subjects, the benefits he bestowed on the people of St. Kilda are manifest to the kingdom of Great Britain. We, your petitioners, pray our new proprietors to consider our case, and grant that the tenantry be reinstated in the places which have been cleared of their inhabitants by him in Tormore.

The petition of the Upper and Lower Milivaig and Borrodale crofters set forth that, notwithstanding their going north and south all over the country to earn their bread, they are still declining into poverty. The crofts too are getting exhausted through constant tilling. Before 1845 they say there were only 16 families in the two Milivaigs and one in Borrodale. There are now 5 in Borrodale, 19 in Upper Milivaig, and 20 in Lower Milivaig, averaging six souls in each family. The rent before 1845 for the two Milivaigs was £40. At the date mentioned, Macleod of Macleod, who was then proprietor, divided each of the two Milivaigs into 16 crofts.



They prayed that they might get the lands of Waterstein now tenanted by Dr. Martin. The petition concluded :—

Further, we would beg, along with our fellow-petitioners in Glendale, that the tenantry who have been turned out of Lowerkell, Ramasaig, and Hamara by our ill-ruling factor be reinstated.

The tenants of Holmesdale and Liepbein, 29 in number, stated in their petition, that 48 years ago the place was let to ten tenants at about £60, and afterwards re-let to 25 tenants at about £85, besides a sum of £3 2s. 6d. for providing peats for the proprietor. The rents, they say, have nearly doubled since then, and the inhabitants increased, the present number being nearly 200, occupying 33 dwellings. There was much overcrowding, there being as many as 15 persons upon crofts of four acres. The petition contained the following estimate of factors :—“ Unless poor crofters are to be protected by the proprietor of the estate, we need not expect anything better than suppression from factors who are constantly watching and causing the downfall of their fellow-beings, in order to turn their small portion of the soil into sheep-walks.” These tenants prayed that the evicted townships of Lowerkell, Ramasaig, and Hamara, should be restored to the tenants, and thus to afford relief to the overcrowded townships. The crofters of Glasvein said they had no hill pasture for sheep, and no peat moss to get their fuel from. When some of the present crofters, they say, came into possession of their crofts, the township of Glasvein was allotted to seven tenants, each paying an average rent of £5, whereas now the township is in the possession of 12 crofters, paying each an average rent of £4 or so. They accordingly sought to have this matter remedied.

It may be stated that most of the tenants of Glendale



appear to be all hard-working, industrious men, and their houses are better, on the whole, than any crofter district that that we have yet visited in Skye. The soil is more fertile, well drained, and comparatively well cultivated. The men seem to be thoroughly intelligent, and some of them not only read newspapers, but have very decided opinions in regard to some of them. One of these, the *Scotsman*, we heard them designating as "The United Liar". But newspaper reading—that is Liberal newspaper reading—is not encouraged in Glendale. One man whom we met informed us that a crofter in Glendale was accused of reading too many newspapers, a circumstance which the factor strongly suspected accounted for the heinous crime of the crofter being a Liberal. At one time there were some small shops in Glendale, but these would appear to have practically vanished. Some years ago the factor set up a meal store himself, and the crofters, we are informed, were given to understand that shopkeepers would have to pay a rent of £2 each for these so-called shops, in addition to their rents. No one, however, appears to have ever been asked to pay this, but the shops ceased to exist!

Perhaps the most indefensible custom of all was to compel the incoming tenant to pay up the arrears, however large a sum, of his predecessor. This appeared so incredible that no one present felt justified in publishing it; but on our consulting the factor personally, he not only admitted but actually defended the practice as a kind of fair enough premium or "goodwill" for the concern, and said it was quite a common practice in the Isle of Skye. We would describe it in very different terms, but that is unnecessary. It only wants to be stated to be condemned by all honest men as an outrage on public morality.

As we left the district the crofters were in great glee at the

prospect of a visit from the trustees to arrange matters with them. They are hopeful that important concessions may be made to them, and if these hopes should not be realised, they appear to be animated with an unflinching determination to stand by one another, and, shoulder to shoulder, agitate for the redress of what they firmly maintain to be great and serious grievances.

#### DR. MARTIN'S ESTATE.

We have left ourselves but little space to speak of the condition of affairs on the estate of Dr. Martin. This estate is one which is of great interest to Highlanders. Borreraig, one of the townships in revolt, was anciently held rent free by the MacCrimmons, the hereditary pipers of Macleod of Dunvegan. The principal grievance complained of by the crofters may be briefly stated. The crofters are required to sell to the laird all the fish they catch at a uniform rate of sixpence for ling and fourpence for cod, and we have actually been informed of a case where some one was accused at a semi-public meeting of interfering in a sort of clandestine way with the doctor's privileges by buying the fish at higher prices. The crofters were also required to sell their cattle to the doctor's bailiff at his own price. A man spoke of his having some time ago sold a stirk to a foreign drover, and was after all required to break his bargain with the outsider and hand over the animal to the bailiff. This bailiff was, however, dismissed last Whitsunday, a fact stated in defence by Dr. Martin's friends. Tenants are also required to give eight days' free labour each year to the laird, failing which to pay a penalty of 2s. 6d. per day; and while thus working, we were informed that if any one by accident broke any of the

tools he used, he was required to pay for the damage. The breaking of a shearing-hook subjected the man who did it to pay 2s. 6d. for it. We are aware that the friends of the laird maintain that the labour thus contributed by the people is in reality not for labour, but an equivalent for a portion of the rent. This is a very plausible excuse, but it will not bear examination. If it is regarded as a part of the rent, rates should be paid upon it, and the "annual value" or rent returned to the county valuator each year should be the amount actually paid in money plus the value of the eight days' labour. Thus, either the labour is free, or there is an unjust and inequitable burden thrown on the other crofters in the parish who do not perform such labour, as, of course, the labour given by Dr. Martin's tenants is not rated. The tenants have now struck against performing this work, and Dr. Martin's work was done this year on ordinary day labour.

The people also complain that the hill land was taken from the tenants of Galtrigill, and the hill grounds of Borreraig, the neighbouring township, thrown open to them. This was a very material curtailment of the subjects let, but further, sums of from 10s. to 30s. were added to the rent of each holding. No crofter on the estate has a sheep or a horse, and they are obliged to buy wool for their clothing from a distance, as Dr. Martin, they say, will not sell them any. The tenants paid their rents at Martinmas last, but they have given notice that unless their demands are conceded they will not pay the rent due at Martinmas next. The leading points of their petition are that the rents be reduced, the old land-marks restored, and the hill grounds as of old given to them. This petition the tenants sent to Dr. Martin some time ago, but he has not made any reply. The tenants do not appear to be very hopeful that

he will make any concession, but they are evidently determined to walk in the same paths as their neighbours on the estate of Sir John Macpherson Macleod, and they are in great hopes that the friends of the Gael in the large towns of the south will manfully aid them in their battle against landlordism. This statement will enable the reader to form his own opinion on the question which has produced such a feeling of insecurity and terror in the minds of both crofter and proprietor for the last two years in the Isle of Skye, indeed throughout the whole Highlands.

#### BURNING THE SUMMONSES IN THE BRAES.

We shall next give a short account of what followed upon the refusal of these proprietors to give favourable consideration to the claims of their crofting tenantry. A correspondent of the *Free Press*, early in April last, described what had occurred—after the tenants had refused to pay any rent until their grievances were considered—in the following terms:—

The quarrel between Lord Macdonald and his tenants of Balmeanach, Peinichorrain, and Gedintaillear, in the Braes of Portree, is developing into portentous importance. His lordship, it appears, has made up his mind to put the law in force against them, and not on any account to yield to their demands; and on Friday a sheriff-officer and assistant, accompanied by his lordship's ground-officer from Portree, proceeded to serve summonses of removing, and small debt summonses for rent upon about a score of the refractory ones. The tenants, however, for some time past, since they took up their present attitude, have been posting regular sentinels on watch to give warning of any stranger's approach, and when the officer and his party were at the Bealach near

the schoolhouse, two youngsters who were on duty thereabout gave the signal, and, immediately, it was transmitted far and near with the result of bringing together from all quarters from their spring work a gathering of about 150 or 200 men, women, and children, who rushed to meet the officer before he had got near the intended scene of his operation, viz., the townships of Peinichorrain, Balmeanach, and Gedintaillear, and, surrounding him, demanded his business. Upon understanding it, and being shown the summonses, the documents were immediately taken from him and burnt before his eyes, and thereupon he was coolly requested to go to his master for more of them. The officer, who is well known among them, with good tact, humoured them, and so escaped with a sound skin, so that no violence was used ; but it appears the temper of the people was such that had he been less conciliatory, or had he attempted to resist the people, the consequence would have been inevitably very serious for him. When they were gathering from the sea-shore, where many of them were cutting sea-ware with reaping-hooks, their leaders judiciously shouted out to leave their hooks behind, which was done, so that the risk of using such ugly arms in the event of a *melée* was avoided. The officer spoke lightly before proceeding to the place of the resistance he was likely to meet, and thought there would really be none, as he knew the people so well and they knew him, many of them being his relations, but his impressions now of the real state of the people's minds is said to be very different, and he believes there would be no use attempting any legal steps again by the employment of the officers of civil law. The same paper in a later issue says :—

We have received the following narrative of the manner in which the summonses were burned on Friday last :—The



people met the officer on the road, about a mile from the scene of his intended labours. They were clamorous and angry, of course. He told them his mission, and that he would give them the summonses on the spot if they liked. They said, "Thoir dhuinn iad," (Give them to us) and he did so. The officer was then asked to light a fire. He did so; and a fish liver being placed upon it, that oily material was soon in a blaze. The officer was then peremptorily ordered to consign the summonses to the flames, which he did! The summonses were of course straightway consumed to ashes. The interchange of compliments between the officers of the law and the people were, as might be expected, of a fiery character. The chief officer was graciously and considerately informed that his conduct—as he had only acted in the performance of a public official duty—was excusable; but with his assistant, or concurrent, it was different. He was there for pay, and he would not go home without it. Certain domestic utensils, fully charged, were suddenly brought on the scene, and their contents were showered on the unlucky assistant, who immediately disappeared, followed by a howling crowd of boys.

#### MARCH OF THE DISMAL BRIGADE.

The summonses were never served, and the County Authorities after full consideration determined to arrest and punish the ringleaders for deforcing the officers of the law. Sheriff Ivory obtained a body of police from Glasgow, and with these, twelve from the mainland of the County of Inverness, and the Skye portion of the force, he, with the leading county officials invaded the Isle of Skye during the night of the 17th of April. After consulting with the local



authorities in Portree, an early start was made for the Braes to surprise and arrest the ringleaders. The secret was well kept, but two newspaper correspondents were fortunate enough to get an inkling of the proceedings, namely, Mr. Mackinnon Ramsay, of the *Citizen*, who followed the invading force from Glasgow, and Mr. Alexander Gow, a special correspondent of the *Dundee Advertiser*, who had gone to Portree a few days before the Battle of the Braes. These gentlemen accompanied the county officials, saw the whole proceedings, and sent a full description of the desperate and humiliating scrimmage to their respective papers. We give below Mr. Gow's graphic account, every particular of which we found corroborated by the leading county officials on our arrival in Portree the same evening. After describing the state of feeling, and the acts on the part of the crofters which led up to direct contact with the criminal authorities, Mr. Gow proceeds :—

Here we were, then—two Sheriffs, two Fiscals, a Captain of police, forty-seven members of the Glasgow police force, and a number of the county constabulary, as well as a couple of newspaper representatives from Dundee and Glasgow, and a gentleman representing a well-known Glasgow drapery house—fairly started on an eight-mile tramp to the Land League camp at Braes, in weather that for sheer brutal ferocity had not been experienced in Skye for a very long time. In the cold grey dawn the procession wore a sombre aspect. It looked for all the world like a Highland funeral. It was quite on the cards, indeed, that the return journey might partake of the nature of a funeral procession. There could be no doubt that every one was fully impressed with the gravity of the mission on which we were proceeding. It is literal truth to say that no member of the company expected to return without receiving knocks, if not some-

thing more serious. We were perfectly aware that the crofters had made preparations for giving us a warm reception. In front, some distance ahead of the main body, walked the sheriff-officer, a policeman, and another person occupying for the time being some official position. Then came the police detachment, and the Sheriffs and the Fiscals brought up the rear—the three unofficial persons already mentioned forming what may be termed the rearguard. In this manner we proceeded without incident for four miles, when the Sheriff and his friends left the vehicle and sent it back. About half-past six o'clock we reached the boundary of the disaffected district nearest Portree. Hitherto scarcely a single soul was observed along the route, and some surprise was expressed by those in charge. At the schoolhouse, however, it was expected that a portion of the colony would be encountered, but the place was untenanted. On another mile, and signs of life appeared among the hillocks. Presently our ears were saluted with whistling and cheering, and this was interpreted as a sign that it was time to close the ranks. Gedentailier township was passed without any demonstrations of hostility. At the south end of this township there is an ugly looking pass, which seemed to cause some anxiety to the officers in charge. No wonder, as there could not be a finer position for an attack on a hostile body of men. On the west, a steep rocky brae rises sheer from the road to the height of about 400 or 500 feet. On the other side, a terrific precipice descends to the sea. We passed through it in safety, however, but Inspector Cameron, of the Skye police, had reason to believe that the return passage would be disputed.

Arrived at the boundary of Balmeanach, we found a collection of men, women, and children, numbering well on to 100. They cheered as we mounted the knoll, and the

women saluted the policemen with volleys of sarcasms about their voyage from Glasgow. A halt was then called, and a parley ensued between the local inspector and what appeared to be the leader of the townships. What is passing between the two it is difficult for an outsider to understand, and while the conversation is in progress it is worth while to look about. At the base of the steep cliff on which we stood, and extending to the seashore, lay the hamlet of Balmeanach. There might be about a score of houses dotted over this plain. From each of these the owners were running hillward with all speed. It was evident they had been taken by surprise. Men, women, and children rushed forward, in all stages of attire, most of the females with their hair down and streaming loosely in the breeze. Every soul carried a weapon of some kind or another, but in most cases these were laid down when the detachment was approached. While we were watching the crowds scrambling up the declivity, scores of persons had gathered from other districts, and they now completely surrounded the procession. The confusion that prevailed baffles description. The women, with infuriated looks and bedraggled dress—for it was still raining heavily—were shouting at the pitch of their voices, uttering the most fearful imprecations, hurling forth the most terrible vows of vengeance against the enemy. Martin was of course the object of greatest abuse. He was cursed in his own person and in that of his children, if he should have any, one female shrieking curses with especial vehemence. The authorities proceeded at once to perform their disagreeable task, and in the course of twenty minutes the five suspected persons were apprehended. A scene utterly indescribable followed. The women, with the most violent gestures and imprecations, declared that the police should be attacked. Stones began to be thrown, and so serious an aspect

did matters assume that the police drew their batons and charged. This was the signal for a general attack. Huge boulders darkened the horizon as they sped from the hands of infuriated men and women. Large sticks and flails were brandished and brought down with crushing force upon the police—the poor prisoners coming in for their share of the blows. One difficult point had to be captured, and as the expedition approached this dangerous position, it was seen to be strongly occupied with men and women, armed with stones and boulders. A halt was called and the situation discussed. Finally it was agreed to attempt to force a way through a narrow gully. By this time a crowd had gathered in the rear of the party. A rush was made for the pass, and from the heights a fearful fusilade of stones descended. The advance was checked. The party could neither advance nor recede. For two minutes the expedition stood exposed to the merciless shower of missiles. Many were struck, and a number more or less injured. The situation was highly dangerous. Raising a yell that might have been heard at a distance of two miles, the crofters, maddened by the apprehension of some of the oldest men in the township, rushed on the police, each person armed with huge stones, which, on approaching near enough, they discharged with a vigour that nothing could resist. The women were by far the most troublesome assailants. Thinking apparently that the constables would offer them no resistance, they approached to within a few yards' distance, and poured a fearful volley into the compact mass. The police charged, but the crowd gave way scarcely a yard. Returning again, Captain Donald gave orders to drive back the howling mob, at the same time advising the Sheriffs and the constables in charge of the prisoners to move rapidly forward. This second charge was more effective, as the attacking force was

driven back about a hundred yards. The isolated constables now, however, found their position very dangerous. The crofters rallied and hemmed them in, and a rush had to be made to catch up the main body in safety. At this point several members of the constabulary received serious buffetings, and had they not regained their comrades, some of their number would in all probability have been mortally wounded. Meanwhile the crowd increased in strength.

The time within which summonses of ejectment could be legally served having expired, the crofters had for a day or two relaxed their vigilance, and not expecting the constables so early in the morning, they had no time to gather their full strength. But the "Fiery Cross" had in five minutes passed through the whole township from every point. Hundreds of determined looking persons could be observed converging on the procession, and matters began to assume a serious aspect. With great oaths, the men demanded where were the Peinichorrain men. This township was the most distant, and the men had not yet had time to come up. But they were coming. Cheers and yells were raised. "The rock! the rock!" suddenly shouted some one. "The rock! the rock!" was taken up, and roared out from a hundred throats. The strength of the position was realised by the crofters; so also it was by the constables. The latter were ordered to run at the double. The people saw the move, and the screaming and yelling became fiercer than ever. The detachment reached the opening of the gulley. Would they manage to run through? Yes! No! On went the blue coats, but their progress was soon checked. It was simply insane to attempt the passage. Stones were coming down like hail, while huge boulders were hurled down before which nothing could stand. These bounded over the road and



descended the precipice with a noise like thunder. An order was given to dislodge a number of the most determined assailants, but the attempt proved futile. They could not be dislodged. Here and there a constable might be seen actually bending under the pressure of a well-directed rounder, losing his footing, and rolling down the hill, followed by scores of missiles. This state of matters could not continue. The chief officials were securing their share of attention. Captain Donald is hit in the knee with a stone as large as a matured turnip. A rush must be made for the pass, or there seems a possibility that Sheriff Ivory himself will be deformed. Once more the order was given to double. On, on, the procession went—Sheriffs and Fiscals forgetting their dignity, and taking to their heels. The scene was the most exciting that either the spectators or those who passed through the fire ever experienced, or are likely ever to see again. By keeping up the rush, the party got through the defile, and emerged triumphantly on the Portree side, not however, without severe injuries. If the south end township had turned out, the pass would, I believe, never have been forced, and some would in all probability have lost their lives.

The crofters seemed to have become more infuriated by the loss of their position, and rushing along the shoulder of the hill prepared to attack once more. This was the final struggle. In other attacks the police used truncheons freely. But at this point they retaliated with both truncheons and stones. The consequences were very serious indeed. Scores of bloody faces could be seen on the slope of the hill. One woman, named Mary Nicolson, was fearfully cut in the head, and fainted on the road. When she was found, blood was pouring down her neck and ears. Another woman, Mrs. Finlayson, was badly gashed on the cheek with some



missile. Mrs. Nicolson, whose husband, James Nicolson, was one of the prisoners, had her head badly laid open, but whether with a truncheon or stone is not known. Another woman, well advanced in years, was hustled in the scrimmage on the hill, and, losing her balance, rolled down a considerable distance, her example being followed by a stout policeman, the two ultimately coming into violent collision. The poor old person was badly bruised, and turned sick and faint. Of the men a considerable number sustained severe bruises, but so far as I could ascertain none of them were disabled. About a dozen of the police were injured more or less seriously. One of the Glasgow men had his nose almost cut through with a stone, and was terribly gashed about the brow. Captain Donald, as already stated, was struck on the knee, and his leg swelled up badly after the return to Portree. Neither the Sheriffs nor the Fiscals were injured, but it is understood that they all received hits in the encounter on the hill.

After the serious scrimmage at Gedintailier, no further demonstrations of hostility were made, and the procession went on, without further adventure, to Portree. Rain fell without intermission during the entire journey out and home, and all arrived at their destination completely exhausted. On arrival in town the police were loudly hooted and hissed as they passed through the square to the jail, and subsequently when they marched from the Court-house to the Royal Hotel. The prisoners were lodged in the prison. Their names are :—Alexander Finlayson, aged between 60 and 70 years ; Malcolm Finlayson, a son of the above, and living in the same house (the latter is married) ; Peter Macdonald has a wife and eight of a family ; Donald Nicolson, 66 years of age, and is married ; and James Nicolson, whose wife was one of the women seriously injured.

Unless appearances are totally misleading, the work which they were obliged to accomplish was most repugnant to Sheriff Ivory, Sheriff Spiers, Mr. James Anderson, Procurator-Fiscal for the County, and Mr. MacLennan; and the hope may be expressed that they will never again be called upon to undertake similar duties.

The "Battle of the Braes" has been capitally hit off in the following parody, published in the *Daily Mail* of the 26th of April last :—

#### CHARGE OF THE SKYE BRIGADE.

Half a league, half a league !

Four a-breast—onward !

All in the valley of Braes

Marched the half-hundred.

"Forward, Police Brigade !

In front of me," bold Ivory said ;

Into the valley of Braes

Charged the half-hundred.

"Forward, Police Brigade !

Charge each auld wife and maid !"

E'en though the Bobbies knew

Some one had blundered !

Their's not to make reply ;

Their's not to reason why ;

Their's but to do or die ;

Into the valley of Braes

Charged the half-hundred.

"Chuckies" to right of them,

"Divots" to left of them,

Women in front of them,

Volleyed and thundered !

Stormed at with stone and shell,

Boldly they charged, they tell,

Down on the Island Host !

Into the mouth of—well !

Charged the half-hundred.

Flourished their batons bare,  
Not in the empty air—  
Clubbing the lasses there,  
Charging the Cailleachs, while  
All Scotland wondered !  
Plunged in the mist and smoke,  
Right thro' the line they broke ;—  
Cailleach and maiden  
Reeled from the baton stroke,  
Shattered and sundered ;  
Then they marched back—intact—  
All the half-hundred.

Missiles to right of them,  
Brickbats to left of them,  
Old wives behind them  
Volleyed and floundered.  
Stormed at with stone and shell—  
Whilst only Ivory fell—  
They that had fought so well  
Broke thro' the Island Host,  
Back from the mouth of—well !  
All that was left of them—  
All the half-hundred !

When can their glory fade ?  
O, the wild charge they made !  
All Scotland wondered !  
Honour the charge they made !  
Honour the Skye Brigade !  
Donald's half-hundred !

ALFRED TENNYSON, JUNIOR.

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## TRIAL OF THE BRAES CROFTERS.

WHEN the “Battle of the Braes” had been fought and won,  
and the gallant Sheriff with his brave contingent of blue-  
coats covered with the mud of the Braes and the glory of

their masterly retreat before the old men and women of Gedintailier had retired to their quarters in Portree, the friends of the prisoners began to think of their defence when they came before the Law Courts for trial.

A few hours after the Police Brigade returned to Portree, Dean of Guild Mackenzie, Inverness, editor of the *Celtic Magazine*, who had gone, as representative of the Highland Land Law Reform Association, to report upon the alleged grievances of the crofters in Skye, arrived in Portree. Him the friends of the prisoners consulted, with the result that he dispatched a telegram to Mr. Kenneth Macdonald, Town Clerk of Inverness, asking him to undertake the defence. Curiously enough a number of sympathisers in Glasgow, who had formed themselves into a defence committee, met about the same time, and they also, through their secretary, Mr. Hugh Macleod, Writer, Glasgow, telegraphed to know if Mr. Macdonald would defend the prisoners. Both telegrams were delivered about the same time and to each an affirmative reply was immediately sent.

At this time nothing definite was known of the charge preferred against the prisoners, and it was not until the 26th of April, 1882, a week after the arrest, and when they could no longer be legally detained without having a copy of the charge delivered to them, that the prisoners were committed for trial and allowed to see an adviser. Such is the humanity of the Criminal Law of Scotland. During the week which a prisoner can thus be legally kept in close confinement, he will not be permitted to see friend or adviser of any kind, but he may be brought day after day before the Sheriff and subjected to examination by a skilful lawyer whose main if not sole object is to get from him admissions which will tend to prove his guilt, and every

word he utters during this time is taken down for the purpose of being used against him at his trial.

After the prisoners were committed for trial, they were visited by their agent, with the editor of the *Celtic Magazine* as interpreter, and in course of conversation, and in reply to questions, the prisoners expressed a desire to get home to proceed with the spring work on their crofts. By this time the sympathy with the prisoners among the outside public, not merely in the Highlands but in the large cities of the south, had extended through all classes of society. Many who were in entire sympathy with them in their personal grievances thought that they saw in the proceedings taken against them, and in the outrages perpetrated in Skye in the name of law, a means of creating a public opinion which would compel the Legislature to take up the question of land tenure in the Highlands. It was the desire of this party that the accused should be allowed to remain in prison until their trial came on, in order that the public sympathy which their apprehension and imprisonment evoked should have time to take definite form. If the calculations of these sympathisers should turn out accurate, the infliction of a slight hardship upon these men would result in permanent good to themselves and the whole class to which they belonged. The desires of the men themselves, however, of their friends in Inverness, and the interest of their families, naturally guided Mr. Macdonald's proceedings, and he presented a petition to the Sheriff to fix bail. The bail was fixed by Sheriff Blair at £20 sterling for each prisoner—£100 in all—and immediately it became known that persons were wanted, to sign the bond, gentlemen offered themselves, the required subscriptions were obtained, and the five prisoners were liberated that night. The gentlemen who signed the bond were: Mr. John Macdonald, mer-

chant, Exchange ; Dean of Guild Mackenzie ; Councillor Duncan Macdonald ; Councillor W. G. Stuart ; Mr. Wm. Gunn, Castle Street ; Mr. T. B. Snowie, gunmaker ; Mr. Donald Campbell, draper ; and Mr. Duncan MacBeath, Duncraig Street—all of Inverness. On the following day the accused left Inverness for Skye by the 9 A.M. train, accompanied to the station by several of their friends, including the Reverend and venerable Dr. George Mackay.

The following account of the reception of the liberated men on their return to Portree is taken from the *Aberdeen Daily Free Press*, whose special correspondent, Mr. William Mackenzie, was on the spot :—

The five men from the prison of Inverness arrived at Portree this evening, and were received with unbounded enthusiasm. Early in the day a telegram was received intimating that they had left Inverness in the morning, and that the venerable pastor of the North Church, the Rev. Dr. Mackay, gave them there a friendly farewell. Mairi Nighean Iain Bhain, to whose poetic effusions on the men of the Braes and Benlee, I have formerly alluded, went by the steamer from Portree in the morning to meet them at Strome Ferry. She was accompanied by Colin the piper, and on the homeward journey the men were inspired with the songs of the poetess, the music of the Highland war-pipe, and a scarcely less potent stimulant, the famous Talisker. It was known far and wide that the men were to come to-night, and their fellow-crofters in the Braes resolved to give them a hearty reception. The Braes men accordingly began to straggle into the town in the afternoon, and groups of them might be seen along the street eagerly discussing the situation. Endeavours were made to induce the "suspects" to leave the steamer at Raasay and row afterwards to the Braes. This would, of course, deprive their friends of any chance to give them an ovation at Portree, and lead outsiders to suppose that the Portree people regarded the matter with indifference. The liberated men were, however, warned against being caught in the snare which was laid for them, and they came straight on to Portree. The steamer did not arrive till about eight o'clock, but whenever she reached the quay the assembled multitude raised a deafening cheer, again and again renewed, which completely drowned Colin's pipes. As soon as the steamer was brought



alongside the quay, Colin stepped out, playing "Gabhaidh sinn an rathad mor". He was followed by the poetess, and after her the five liberated men. Each man, as he stepped on the quay, was embraced by the males, and hugged and kissed by the females, amid volumes of queries as to their condition since they left, and congratulations on their return. These friendly greetings were not allowed to be of any duration, for each man was hoisted and carried shoulder-high in triumph through the streets of Portree. The Braes men themselves mustered in full force, and in the procession they were joined by numerous sympathisers in the district and the village of Portree. The crowd, headed by the piper and the poetess, proceeded along the principal thoroughfare to the Portree Hotel. Bonnets were carried on the tops of walking sticks, and held up above the heads of the people, amid cries of "Still higher yet my bonnet," while the women of Portree waved their white handkerchiefs and shouted Gaelic exclamations of joy as the "lads wi' the bonnets o' blue" were carried along in triumph. On reaching the Portree Hotel a number of them, including the "suspects," went in, and Mr. MacInnes, the popular tenant of that excellent and well-conducted establishment, treated the "suspects" to refreshments. Who should happen to turn up unexpectedly at the hotel but the factor, accompanied by some of his friends, and when that individual emerged from the door of the hotel, he was received with a volume of groans. The Braes men left the hotel without any delay and marched to their homes in a body, shouting and cheering as they proceeded on their way. A carriage was sent after them to convey the five men from Inverness to their respective places of abode.

In the meantime an intimation had been conveyed to the Prisoners' Agent by Mr. James Anderson, Procurator-Fiscal of Inverness, that he had been ordered by the Crown Agent to have the prisoners tried summarily before the Sheriff for the crimes of deforcement and assault. This was, so far as known, the first time in Scottish Legal History that so serious a crime, so seriously treated by the authorities at the outset, had been ordered for summary trial. There was something suspicious in the order, and although the letter of it was adhered to, it is probable that but for the protests made on behalf of the prisoners, both in and out of Parliament, the true meaning of the order would have been made

evident at the trial. On receiving intimation of the order, Mr. Macdonald wrote to the Lord-Advocate for Scotland, requesting that he should instruct the trial to proceed before a jury. To that letter the following reply was received:—

WHITEHALL, April 29, 1882.

SIR,

I am directed by the Lord-Advocate to acknowledge receipt of your letter of 27th current, and to say in reply that he sees no reason for recalling the order for trial of the Skye crofters charged with assault and deforcement before the Sheriff summarily, and that the order will therefore be carried out.

I am,

Sir,

Your obedient servant,

D. CRAWFORD.

KENNETH MACDONALD, Esq.

Mr. Macdonald, immediately on receiving the reply, addressed the following letter to the Lord-Advocate:—

INVERNESS, 1st May, 1882.

MY LORD,

I have received from your Secretary a letter stating that you “see no reason for recalling the order for trial of the Skye crofters charged with assault and deforcement before the Sheriff summarily, and that the order will therefore be carried out”. I thought when I first wrote you that the request for a jury trial was so fair and reasonable that I did not require to adduce any reason in support of it, and that it lay with you, if you refused it, to give a reason for the refusal. Since, however, you do not seem to take this view of the matter, you will permit me to state some of the reasons which I think ought to induce you to grant the request of the prisoners.

The crime with which the men are charged is said to have been committed in the Skye district of this county. In that district there is a Court which has hitherto, so far as I can ascertain, tried *all* summary cases arising in the district. And yet without any reason assigned, the present case has been ordered for trial at Inverness. Had the case been sent for a jury trial it would have been the usual, and indeed, necessary,

course to try the case here, but it is a thing hitherto unheard of that a summary trial from one of the outlying districts of the county should be taken here. With a complete machinery for conducting summary trials in the District Court, the prisoners are entitled to some explanation of the reason why they are put to the expense of bringing their witnesses and themselves from Skye to Inverness, when, in the ordinary course of things, they ought to go no further from home than Portree. It may be answered that as the resident Sheriff at Portree was engaged in the apprehension of the prisoners, he ought not to try the case. That is perfectly true. The prisoners quite agree that it would be improper to have the case tried by Mr. Spiers, but they are not responsible for what he has done, and ought not to suffer for it. If Sheriff Spiers has disqualified himself from trying the case, that affords no reason for punishing the persons to be tried. All that would be required to be done would be to have the trial conducted in Portree by Sheriff Blair, who would, according to your order, conduct it in Inverness.

What I have said is sufficient to show that your order is an exceptional one, and the prisoners, and, I believe, the public also, will expect you to justify it. Had these prisoners stood alone, their poverty would have prevented them bringing a single witness from Skye to establish their innocence, and your order would have meant a simple denial of justice.

But, further, the crime with which these men are charged is that of deforcement of an officer of the Sheriff of Inverness, and your order is that the Sheriff, whose servant is said to have been deforced, shall be the sole judge of whether the crime was committed or not. It is not my wish to draw historical parallels, but the circumstances will, no doubt, suggest to your lordship a series of trials which took place in Scotland nearly ninety years ago, when Muir and his fellow-reformers were convicted of sedition. It is not for me to suggest, and I do not suggest, that any of our local judges would deal unfairly with the prisoners, but I ask what is your reason for refusing them a trial by jury. It is to *you* they look in the first instance, and it is *your* reasons for pursuing an exceptional course with men who have already been harshly dealt with that the public will canvass.

I presume the object of the proceedings which have already been adopted with regard to these men, and of the trial which is to follow, is to inspire them and their fellows with a proper respect for the law. If this is so, let them have no excuse for saying they have not got fair play. If their crime was so important as to call for the exceptional measures taken for their apprehension, it is surely too important to be

disposed of by a Court whose duties are usually confined to mere matters of police. The belief of the prisoners is that the object of your order is to secure their conviction at all hazards irrespective of their guilt or innocence, and this belief is shared by a growing number of the outside public. It is for you to dispel this misapprehension if it is one.

In such circumstances as I have described a summary trial would be little else than a farce ; and you will never inspire the Highland crofters or their friends with respect for the law if you persist in enacting such a farce in its name. I trust, therefore, you will reconsider your resolution, and yet order the trial of the prisoners in a manner which will inspire them with confidence in the administration of the law of their country.

I am,

Your obedient servant,

KENNETH MACDONALD.

The Honourable the LORD-ADVOCATE for Scotland,  
Home Office, Whitehall, London, S.W.

On the same evening that the letter was written Mr. Fraser-Mackintosh (M.P. for the Inverness Burghs), in the House of Commons, asked the Lord-Advocate whether he would order that the Skye crofters now committed for trial should, instead of being tried summarily, have the privilege of being tried by a jury of their countrymen, and that the presiding judge should be one disconnected with the exceptional proceedings attendant on their recent apprehension ?

Mr. Dick Peddie had also the following question to ask the Lord-Advocate—Whether it is the case that instructions have been given that the five crofters recently arrested in Skye, and now released on bail, be tried summarily ; whether they have applied through their agent to be tried by jury : and whether he intended to comply with their application ?

The Lord-Advocate, in reply, said he saw no reason for recalling the order for the trial before a summary magistrate.

After due consideration with his learned friend, the Solicitor-General for Scotland, this decision had been arrived at when the case was before them during the Easter recess. The people of Skye were generally peaceful, and having reason to believe that they were misled by bad advice, or they would not have resisted officers of the law in the execution of a legal warrant, he, with his learned colleague, thought that the offence would not be repeated if it was made clear to the people as rapidly as possible that the law will be vindicated. The charges preferred were of the least grave class that could be preferred on behalf of the Crown, and summary trial proceedings afforded little delay. The maximum sentence that could be inflicted was sixty days, and of course a lighter sentence would be passed if in the discretion of the magistrate it met the justice of the case. As to the last part of the question, it was intended that the trial should proceed before the Sheriff of Inverness who had not hitherto taken part in measures which unfortunately became necessary to vindicate the authority of the law in Skye.

The refusal of a Jury trial was final so far as the Crown was concerned. Curious as it may seem, an accused person in Scotland has no right to demand a trial by his peers. Our forefathers were not so careful of their liberties in this respect, or not so powerful to enforce them as our neighbours over the border. They took care centuries ago to secure this right ; we have not secured it yet.

What might have occurred in this particular case but for the fear of public indignation it is hard to say. Tyranny has a peculiar fascination for weak men. Lord-Advocate Balfour, a good lawyer, but a weak politician, the holder of an office which was long since stripped of most of its power, and which immediately before his accession to it was so emasculated that his predecessor declined to sacrifice his



self-respect by continuing to hold it,—desired to do one official act which had an appearance of strength about it without the reality. He had brought contempt upon the administration of the law by sanctioning or suggesting the sending of a large body of police from Glasgow to Skye to arrest a few old men of peaceful habits and general good character, whose worst weapon, it has been proved, was a lump of wet turf, and when the whole country was indulging in a roar of laughter over the ignominious retreat of the invading army of policemen before the women of the Braes, and the ridiculous ending of a performance which was intended to represent the dignity of the Law, he, the person primarily responsible for the mistake which had been committed, would naturally desire to cover his blunder by securing a conviction against the few harmless cottars whom the policemen in their blind panic had first laid hands on.

If ever there was a case which ought to be tried by a Jury this was one. At no time is the right of Jury trial more valuable than when the opinions of the public, and the acts of the Crown, as represented by its officials, run counter to each other, and when these acts are in any way connected with the offence to be tried. At no time ought the right to be more readily conceded. Here, however, it was determinedly denied. To Mr. Macdonald's second letter no answer was ever given. We believe none was expected. Except in the answer given to the questions of Mr. Fraser-Mackintosh and Mr. Dick Peddie in the House of Commons, at least twenty-four hours before Mr. Macdonald's letter reached him, the Lord-Advocate did not attempt either to explain or defend his conduct. In point of fact, complete explanation or defence was impossible. All that time the Crown officers must have known what was



not known to the prisoners' advisers at the time, that there was no evidence against the prisoners upon which any sane Jury would convict. But the Lord-Advocate seems never to have forgotten that the officialism of the County of Inverness had involved itself in the mess, and in a summary trial officialism might be left to vindicate its own dignity. This would also vindicate the dignity of the law, and the wisdom of its administrators—at least so they thought. This theory was universally accepted outside official circles as the reason for the resolution to try summarily, and but for the protests made by outsiders, and particularly a number of Scottish Members of Parliament to secure a fair trial for the prisoners, most people believed that the trial would have been even a greater farce than it turned out to be, but with a far different ending.

The efforts of the Scottish Members to obtain a Jury trial did not end with the questions in the House of Commons. Efforts were made privately by some of these gentlemen to save the Administration of Justice in Scotland from being sullied, but without result, and when all their efforts failed, the members who had taken most interest in the matter, published the following protest in the *Times* of 10th May, 1882, from which it was quoted by almost every newspaper in the Kingdom:—

The circumstances of the arrest, by a large body of police brought from Glasgow, of half-a-dozen Skye crofters, accused of deforcing a sheriff's officer who went among them to serve writs, and the attempt at a rescue which attended it, must be fresh in the minds of your readers. We need not say that the case has excited great public interest in Scotland. It is most important, therefore, in order to secure any moral effect, that the trial should be conducted under such circumstances as will place the verdict above all suspicion. This, we regret to say, is not to be done, and already many persons who sympathise with the men, and desire that their case shall be fairly heard, openly accuse the Executive of resorting to unworthy means to obtain a conviction. For

ourselves, we may at once state our perfect belief in the sincerity of the Lord Advocate in his profession of a desire, while vindicating the law, to provide for the accused that form of trial which will protect them from an unnecessarily heavy punishment. But punishment pre-supposes guilt, while what the accused contend is that they are not guilty. What they claim is that they shall first have their guilt established in the ordinary way, and if found guilty they are willing to take their chance of that punishment their conduct may seem to deserve.

Now, persons accused of crimes committed in Skye have hitherto been invariably tried in one of two ways. If the cases are considered so trivial as to be dealt with summarily, they are tried by a sheriff-substitute sitting at Portree. This course secures to the accused the important advantage that evidence for his defence is procurable at a *minimum* of expense and inconvenience. If the case is of a grave character, it is tried by a jury at Inverness. This, of course, involves much more inconvenience and expense to the defence, but it secures the services of a jury, a tribunal which, for the purpose of deciding on matters of fact, is admittedly superior to a Judge, however impartial, sitting alone. But in the case of the Skye crofters the trial is to be at Inverness, without a jury. The defence thus incurs all the inconvenience and expense usually attendant on a jury trial, and obtains none of the advantages in the way of a tribunal the best qualified to pronounce on the question of the guilt or innocence of the accused. It is stated that Portree is in such an excited state that it is unadvisable that the trial should take place there, and that, therefore, it has to be removed to Inverness. There is not the smallest reason, however, why, being held at Inverness, it should not be held in the usual manner. The accused dispute the facts alleged by the prosecution. Their agent has asked for a jury to decide on the question of fact. A jury trial is the invariable mode of disposing of Skye cases tried at Inverness ; but a jury trial, though in this case specially demanded, has been refused. The reason given for its refusal is that the Crown authorities having originally intended that the trial should be a summary one at Portree, though it has now been deemed advisable to remove it to Inverness, they see no reason to change the form of trial on that account. The reply is that at Portree there would have been nothing unusual in a summary trial, and trial at Portree would have secured material advantages to the accused. At Inverness the summary trial of a Skye case is unprecedented, and the expense to the accused as heavy as would be that of a jury trial.

But the Lord Advocate has explained that if the cases had been tried

by jury the sentences might have been much heavier than those to which they would be exposed on summary conviction. That is true, but it is equally true that the judge might have awarded sentences as light as he deemed proper. In the interests of justice it is desirable that the punishment should be commensurate with the offence. There is no reason why a judge sitting with a jury on circuit or in the Sheriff Court should not award the slightest possible sentence. That is what the agent for accused thinks, and, knowing their case, he is willing to take his chance of the heavier sentence if they are found guilty and are thought to deserve it.

On the point of guilt or innocence, however, he prefers the verdict of a jury to the decision of a judge, and that has been refused. In criminal cases in Scotland a bare majority of the jury convicts, and if the case is not strong enough to convince eight men out of fifteen, the prisoners are surely entitled to the benefit of the doubt. That is all that has been asked, and that, despite the strongest representations, has been refused. To us its refusal in this particular case, on grounds of public policy, seems particularly regrettable, and we beg through your columns publicly to protest against it.

CHARLES CAMERON.  
C. FRASER-MACKINTOSH.  
P. STEWART MACLIVER.  
JAMES COWAN.  
FRANK HENDERSON.  
J. DICK PEDDIE.  
JAMES W. BARCLAY.

House of Commons, May 9, 1882.

Commenting on this protest the *Pall Mall Gazette* of 10th May, said :—

It is hard to see what answer there can be to the protest on behalf of the Skye crofters raised in the *Times* this morning by seven Scotch members. Skye cases have hitherto always been disposed of either summarily at Portree or by trial before a jury at Inverness. If the accused had not the satisfaction of submitting his case to a jury, he was, at least, relieved from the expense of being tried at a distance from home. But in the present instance it is proposed to try the crofters at Inverness, but without a jury. Why should the crofters be subjected to the disadvantage of both methods of trial without the benefit of either ?

Whether if published earlier this Protest would have had any effect it is hard to say. Probably not. As it was, it only appeared in the *Times* the day before that fixed for the trial. By that time the arrangements were complete. Some days before then Mr. Macdonald, the accused's agent, finding that the trial was to proceed summarily, had gone to Skye and precognosced a large number of witnesses, several of whom were cited for the defence. On the morning the Protest appeared in the *Times* the accused and the witnesses for the prosecution and defence left Portree for Inverness, the trial having been fixed for the 11th of May, 1882.

On that day the accused took their place at the Bar of the Sheriff Court in the Castle of Inverness. The hour of commencement was noon, and by that time the Court-house was crowded. Sheriff Blair, the presiding judge, was accompanied on the bench by Sheriff Shaw, late of Lochmaddy. Besides numerous members of the Faculty, there were around the bar—Mr. Alex. Macdonald, factor, Portree; Mr. Macleod, secretary of the Skye Vigilance Committee, Glasgow; Dean of Guild Mackenzie; Bailie Smith; Mr. Alex. Macdonald Maclellan; Mr. MacHugh; Mr. Cameron of the *Standard*, and several others.

The indictment set forth that Alexander Finlayson, tenant or crofter; Donald Nicolson, tenant or crofter; James Nicolson, now or lately residing with the said Donald Nicolson; Malcolm Finlayson, son of, and now or lately residing with, the said Alexander Finlayson; and Peter Macdonald, son of, and now or lately residing with, Donald Macdonald, tenant or crofter, all residing at Balmeanach, had all and each, or one or more of them, been guilty of the crime of *deforcing an officer of the law in the execution of his duty; or of the crime of violently resisting and obstructing an officer of the law in the execution of his duty, or persons employed by and assisting an officer of the law in the execution of his duty; and also of the crime of assault*, or of one or other of these crimes, actor or actors or art and part, in so far as Angus Martin, now or lately residing at Lisigarry, near Portree, in the parish

Portree aforesaid, having been as a sheriff-officer of the County of Inverness, on or about the 7th day of April, 1882, instructed by Alexander Macdonald, solicitor in Portree aforesaid, as agent for the Right Honourable Ronald Archibald Macdonald, Lord Macdonald, of Armadale Castle, Skye, to go to Balmeanach, Penachorain, and Gedentailor, three of the townships in the district of Braes, in the parish of Portree aforesaid, to serve actions of removing, which, with the warrants thereon, he delivered to the said Angus Martin for that purpose, raised in the Sheriff Court of Inverness, Elgin, and Nairn at Portree, at the instance of the said Right Honourable Ronald Archibald Macdonald, Lord Macdonald, upon the tenants in the said townships . . . and also to serve small debt summonses for debt . . . and the said Angus Martin having upon the said 7th day of April, 1882, or about that time, proceeded towards, or in the direction of the said three townships of Balmeanach, Penachorain, and Gedentailor, in order to serve the said actions and small debt summonses, accompanied by Ewen Robertson, now or lately residing at Lisigary aforesaid, as his concurrent and assistant, and by Norman Beaton, ground-officer on the estates of the said Lord Macdonald, and now or lately residing at Shullisheddar, in the parish of Portree aforesaid, the said Alex. Finlayson, Donald Nicolson, James Nicolson, Malcolm Finlayson, and Peter Macdonald, did all and each, or one or more of them, assisted by a crowd of people to the number of 150 or thereby, whose names are to the complainer unknown, actors or actor, or art and part, at or near Gedentailor aforesaid [and at a part thereof three hundred yards or thereby on the south of the schoolhouse, known by the name of MacDermid's Institution, on the lands of Olach in the parish of Portree aforesaid, and now or lately occupied by Kenneth MacLean, teacher there], wickedly and feloniously attack and assault the said Angus Martin, *well knowing him to be an officer of the law, and in the execution of his duty as such, and that he held the said actions and small debt summonses and warrants for service*, and the said Ewen Robertson, *well knowing him to be the assistant and concurrent and witness of the said Angus Martin* and the said Norman Beaton, and did knock them, or one or more of them to the ground, and did by force at or near Gedentailor aforesaid, forcibly seize hold of, and destroy the service copies of the actions and small debt summonses before mentioned, and did also upon the lands of Upper Olach, being another township in the said district of Braes, and in the parish of Portree aforesaid [and at a part of said lands occupied by Donald Macpherson, crofter, there, forty yards or thereby on the south of the said schoolhouse], forcibly seize hold of and burn, or cause, or procure to be



burned, the principal copies of the said actions and small debt summonses and warrants thereon, and did further upon the said township of Gedentailor, and upon the said township of Upper Olach, and upon the high road leading from these townships to Portree aforesaid [and on that part of said road lying between Gedentailor aforesaid and the said Schoolhouse], throw stones and clods of earth and peat at the said Angus Martin, Ewen Robertson, and Norman Beaton, by which they, or one or more of them were struck to the hurt and injury of their persons ; *and by all which or part thereof the said Angus Martin, and the said Ewen Robertson were deforced and by force, prevented from executing and discharging their duty and from serving the said actions and small debt summonses.*

Mr. James Anderson, Procurator-Fiscal for the county, conducted the prosecution, and Mr. Kenneth Macdonald, solicitor, and Town Clerk of Inverness, appeared for the prisoners.

The Procurator-Fiscal asked that certain amendments should be made on the complaint with the object of more specifically defining the places at which the acts charged against the prisoners were alleged to have been committed. The amendments were not objected to and were allowed. The lines introduced are those within [ ] in the preceding copy of the libel.

Immediately after the amendments had been made, Mr. Macdonald said that, before the complaint was gone into, he had to state objections to the relevancy of the indictment and also to the competency of the Court to try the case. He objected to the competency of the Court on the ground that the crime charged was of such a serious nature that it ought to be tried by a jury ; and he objected to the competency of the complaint on the ground that the punishment attached by law to the crime charged in the indictment is beyond that which could be imposed in that court. The charge in this case was that of deforcing an officer of the law in the execution of his duty, and that was said to have



been done by the prisoners in concert with a crowd of 150 people; so that the deforcement ran into the other serious charge of mobbing and rioting, the most serious kind of deforcement known to the law. This was the first time, he believed, in the legal history of Scotland that a charge of such a serious nature had been tried in a Summary Court. The accused had been brought to that Court; they objected to being brought there. The public prosecutor had no right to dictate what was the competent Court for the trial of a case; it was for his lordship to say whether the Court was competent or incompetent. The public prosecutor had refused to go to a higher Court; he had refused to give these men the benefit of trial by jury; and it was now for his lordship to say whether these men were to have that benefit. It had been said that the reason for bringing the trial in the Summary Court was the fact that the maximum sentence was so small, but his lordship had the same power in the Jury Court as he had in the Summary Court.

The Sheriff said there was no question whatever in regard to the power of a judge sitting in the Jury Court to inflict the minimum punishment in a case of deforcement; and he instanced a case of that kind, tried by Lord Young at the Inverness Circuit Court, in which the sentence was a fine of 40s., with the alternative of one month's imprisonment.

Mr. Macdonald quoted the acts of the Scottish Parliament of 1581 (C. 118), 1587, (C. 85), and 1591 (C. 152), which regulated the punishment which by statute followed on conviction, to show the serious nature of the charge against the prisoners, and argued that as the libel concluded generally for "the pains of law" and these pains were statutory and such as were beyond the power of a Court of summary jurisdiction to inflict, the Court was incompetent to

dispose of the cause. He also quoted from Hume and Alison to show that the High Court had frequently suspended sentences pronounced in a Summary Court when the crime charged was too serious for such a mode of trial. He maintained that before 1864 there never was a case of such magnitude tried before a Summary Court, and if not before 1864 there was nothing in the Act of that date which would entitle them to try it.

The Sheriff said that this was an offence at common law as well as under the statute. They were proceeding at common law, and the pains and penalties which the prosecutor asked should be inflicted, were the pains and penalties applicable under the Summary Procedure Acts.

Mr. Macdonald held that the punishment was statutory, even though the offence was charged at common law.

The Sheriff said the punishment was statutory if the prosecution was under the statute; but if the prosecution was at common law, it was not necessary for the Court to take the statutory penalty.

Mr. Macdonald contended that when his lordship was asked generally, as in this complaint, to inflict the pains of law upon defenders, that carried them back to the statute law.

The Sheriff—That carries you back to the statute under which you are proceeding; and the statute under which you are proceeding is the Summary Procedure Acts.

Mr. Macdonald—If that is your lordship's view, there is no use in any further pressing my contention.

The Sheriff said that was the view he was inclined to take. He might mention that he had been aware that some objection of this sort might be taken, and he had given the point careful consideration. Personally he should have preferred that the case had been tried by jury, on the ground that it

would have relieved him of a considerable deal of personal responsibility ; but it was not what he desired, but what was really the law on the point. It was quite true, and it had been the opinion of most distinguished lawyers in this country, that there was no point less fixed than as to when a trial was to be by jury or not. In the present case, even should he have been of opinion—which he was not—that the nature of the offence as detailed in the complaint before him was unfit for summary trial, he did not think he could interfere with the discretion of the public prosecutor in trying under the Summary Procedure Acts, as the penalty craved did not extend beyond the limits set forth in these Acts.

Mr. Macdonald then stated that he objected to the relevancy of the indictment. The libel amounted to this—that Angus Martin, who lived at Portrêe, proceeded on a certain day towards, or in the direction of, certain townships ; and that on the way there, at a certain place, he was met by certain people, and had his warrants taken from him. The question for his lordship was whether that amounted to deforcement. The act charged in the indictment, Mr. Macdonald contended, might be theft, or mobbing and rioting, or assault, but it was not deforcement. To be deforced, an officer must be assaulted, and be in bodily fear while in the execution of his duty ; but in the libel it was not mentioned that Martin ever made an attempt to execute the warrants he carried. There was nothing to show that the officers had got near to the residences of any of the persons upon whom they meant to serve the summonses—nothing even to show that even on the road they were near to any of the men against whom they held summonses. He quoted from Hume, Alison, and Macdonald's works on Criminal Law to show that an officer could only be deforced

while he was actually in the execution of his duty as an officer, or *in actu proximo* to its execution. There was nothing in the libel to show that the officers in this case were in the execution of their duty, or on the point of executing it, or even near any of the places where their duty fell to be executed, indeed, the presumption was, from the terms of the libel—and this presumption was strengthened by the amendments just made by the Public Prosecutor—that they had not reached the place when they were met by the people.

As to the alternative charge of violently resisting and obstructing an officer of the law in the execution of his duty, that was simply an unsuccessful attempt at deforcement, and would only be committed in circumstances which, had the resistance been successful, would have amounted to deforcement. In short, here also the officer must be executing, or on the point of executing, his duty, otherwise the crime would not be committed. If, therefore, the libel was irrelevant as regarded the charge of deforcement it was necessarily so as regards the less serious charge of obstructing also.

The Procurator-Fiscal, in reply, quoted from Alison and Macdonald to show that it was unquestionably deforcement if when a messenger had come near to the debtor's house he was met by a host of people who drove him off on notice or suspicion of his purpose. In this case the officer was in the immediate neighbourhood of the place where he intended to serve his warrants, as stated in the libel; and therefore the act charged amounted to deforcement.

The Sheriff, after full consideration, said—The objection taken to the complaint is one of very great importance, and if sustained detracts very materially from the gravity of the offence with which they are charged. The offence

of deforcement, as Mr. Hume says, is not to the individual, but to the officer and the law, which is violated in his person ; and it lies in the hindrance of these formal and solemn proceedings, which took place under regular written authority, which it belongs only to an officer of the law to perform. It therefore appears to me to be indispensable that the complaint should bear that the officer said to be deforced was at or near the premises of the parties against whom the writs were issued ; or that the officer had assumed that official character and entered on his commission, being in the near and immediate preparation with proceeding to the first formalities in the execution of that commission. This complaint does not, in my opinion, contain those essentials ; and therefore, to the extent that I have now stated, the objection must be sustained.

The Procurator-Fiscal—In these circumstances, there is no case of deforcement, and I propose now to proceed with the case as one of assault.

The Sheriff—Of course the offence, though not deforcement, may be assault and battery, aggravated certainly by the station of the officer.

Mr. Macdonald—All that there is in the complaint regarding assault is the phrase, “as also of the crime of assault”. There is not a single word about aggravation. I hope there will be no attempt to prove aggravation when there is no aggravation libelled.

The Sheriff—The offence now to be tried is that of assault. Assault, as we know, may be of various degrees. It may be of such a character as would be met by the minimum sentence, and it may be a serious assault. I used the word “aggravated” in the popular rather than the technical sense. The case to be tried was not an assault



with an aggravation, but an assault which might or might not be of a serious character.

The effect of this judgment was that the charge of deforcement was struck out of the libel and the words printed in italics were held as deleted.

The prisoners were then asked to plead to the charge of assault, and Mr. Macdonald stated that their plea was "Not Guilty".

#### THE SHERIFF-OFFICER AT THE BRAES.

Angus Martin, sheriff-officer, Portree, was the first witness called. Examined by Mr. Anderson, he said—A few days before the 7th April last I received instructions to go to the Braes for the purpose of serving summonses. I went on the 7th April to the Braes, which is about eight miles from Portree. It is on the estate of Lord Macdonald. The summonses I had were for removal, and I had also some small debt summonses for arrears of rent. I left Portree about twelve o'clock, accompanied by Ewen Robertson, and Norman Beaton. As we were going towards the Braes, my attention was directed to two little boys, who came out on the road and looked at us. They ran away, but returned a second time with small flags in their hands. Then they ran towards the townships of Balmeanach, Peinachorrain, and Gedintailier. When I went to Gedintailier I saw two young men with flags. They were bawling out and waving the flags, the boys were also waving their flags. When I got to Gedintailier a great number of persons came out.

The Sheriff—Were there two flags? Witness—Yes.

The Sheriff—After the waving a great many people came? Witness—Yes. A crowd came from the townships.

The Sheriff—How many would there be? Witness—I should say there would be from 150 to 200, including women and children. (Laughter.)

Mr. Anderson—When you say women and children do you also include men? Yes.

Did they surround you? Yes, sir, they did.

The Sheriff—They came towards you and surrounded you? Yes, my lord. I had not then gone off the public road.

Mr. Anderson—Did they ask you anything?—They called out to me to return. I had the summonses in my pocket, and I took them out and



told them my name was Angus Martin, and that I was a sheriff-officer from the Sheriff. When I took out the summonses they rushed forward and snatched the summonses out of my hand. This was done by Donald Nicolson.

Mr. Macdonald—I think we might stop this line of examination now.

Mr. Anderson—On what principle?

Mr. Macdonald—The charge is one of assault merely, and the evidence with which it was intended to support the charge of deforcement is now being led for the purpose as I take it of proving an aggravation which is not libelled.

The Sheriff overruled the objection.

Mr. Anderson—Were the crowd quiet at that time?—No. They were very excited.

What was done with the summonses?—They tried to tear them up and threw them on the ground.

Did any person come up to you then?—Yes, Alex. Finlayson, who had a staff in his hand. He told us that unless we turned back we would lose our lives, meaning myself and the ground-officer.

Did he dare you to proceed further?—Yes. He was also brandishing the stick. Stones were thrown by the crowd, and the whole five prisoners were amongst the crowd. I cannot say who threw the stones. My concurrent was taken hold of by Donald Nicolson, who said, “Get away you b——”. He had a hold of Robertson about the back, and Robertson was afterwards thrown to the ground. Nicolson said (evidently referring to the summonses), “Lift them now, and take them away, you——”. I do not know who it was among the crowd who threw Robertson on the ground. The women were very busy at that time. (Laughter.) I saw James Nicolson when my concurrent was on the ground. He rushed forward with his two hands closed, and asked who was that? On being told, he said, “Kill the b——”. I can’t say what Robertson did then, as I did not like to turn my back. I wished to keep my front to them. (Laughter.) I think he ran towards Portree. He was followed by a large crowd. The crowd continued to threaten me. I spoke to them, and tried to pacify them as best I could, though I was very shaky. (Laughter.) I proceeded towards Portree, but the crowd followed, and continued to threaten me. Stones were thrown by the crowd from Gedintailier until I reached the school-house at Olach, when I got rid of them.

Mr. Anderson—Did they say anything about you not coming back there again?—Yes. They told me not to come back, because I might

be killed, and said if it had been any other officer he would have been killed.

Mr. Anderson—Did Malcolm Finlayson do anything?—He came to me in a great hurry and said the people wished to speak to me ; and I said I would be very glad. He asked me, If I had any summonses, and I told him I had the principals and copies. He snatched them out of my hand, and after trying to tear them threw them on the ground. The crowd were about me at this time, and one of the prisoners, Peter Macdonald, said something about burning the summonses. He said, addressing me, “unless you burn these you will not go home alive”. There were murmurs among the crowd and I was asked to burn the summonses. They tried to burn the summonses themselves first, and tried to light them at a burning peat, but were unsuccessful. When I was threatened with my life, I asked for a piece of paper, and one of the crowd handed me a bit of the torn summons. I blew the burning peat as hard as I could to make it burn and I lighted the piece paper at the burning peat, and handed it to some one in the crowd, crying “go ahead”. I was induced to do this, because I was afraid of my life, as I had been told before I went up that I would be killed. Nothing else induced me to burn the summonses.

Mr. Anderson—You were afraid of your life?—Yes ; I was, and I was very glad to get away. (Laughter.)

Between the place where the summonses were torn and where they were destroyed was there much stone-throwing?—Yes, stones and clods, but I was not struck with them.

Did you see your assistants struck?—Well, I did not like to look back—(Laughter)—but I think they must have been getting some of them.

When you got home you reported the matter to the Fiscal?—Yes.

Cross-examined by Mr. Kenneth Macdonald—What do you do?—I am a sheriff-officer and auctioneer.

Are you also a clerk in the office of Lord Macdonald’s factor?—I am.

Mr. Macdonald—Anything else?—I am sanitary inspector, clerk to the Local Authority, and clerk to the Road Trustees.

Do you hold many other offices?—I am a crofter. (Laughter.)

In which capacity did you go to the Braes?—I went in my capacity as sheriff-officer. I called in to Mr. Macdonald, the factor’s office, that morning to tell that I was going away for a time. I did not get the summonses against these people signed as the Factor’s clerk. They were handed to me by the Sheriff-Clerk. I was instructed to get them from him by Mr. Macdonald, and I proceeded to the Braes to serve

them. I was quite sober then, as sober as I am now, and I think I am sober. Donald Nicolson snatched the summonses from me.

Mr. Macdonald—Will you swear to that?—Yes.

Who saw him?—Lots of people, besides my concurrent and the ground-officer. He tore some of them and did not hand them back to me. I turned my back shortly afterwards, but by that time the papers were lying on the ground.

Did Nicolson ask you for the summonses?—No.

How did he come to get them from you?—I did not give them to him.

How did he come to have them then?—I took them out of my pocket and said I would give the summonses to them as I saw some of the persons for whom they were in the crowd.

Was the bundle tied up?—There was an elastic band about it.

Did you hand the summonses to anyone?—They were snatched out of my hand by Nicolson.

Do you swear that he did not hand them back?—No. I swear that, so far as I can remember.

You must remember that?

The Sheriff—Have you any doubt about it?—No, my lord.

Mr. Macdonald—What became of the summonses?—I don't know. They were lying on the road.

You were not struck by a stone?—No.

Or by anything else?—One of the women, I think, struck me with some soft stuff on the head.

One of the women?—I think so.

Was that Mrs. Flora Nicolson? Witness—Which Mrs. Nicolson?

Mr. Macdonald—You know Mrs. Nicolson?—There are so many Mrs. Nicolson.

Do you know Widow Nicolson, to whom you made the statement about the widows of Gedintailier?—I know two widows of that name.

Do you remember a widow you made remarks about before that?—There are so many of them I can't remember.

Do you know Widow Nicolson of Gedintailier to whom you made a statement about the widows of Gedintailier?—I know more than one Widow Nicolson in Gedintailier, but I don't know their first names.

The Sheriff—Did you see any of these widows?—Yes, I saw Widow Nicolson, Balmeanach.

By Mr. Macdonald—Did she strike you?—No, Sir.

Did she call upon the widows of Gedintailier to come round Martin to get their character?—No, I am not sure.

Did you make a statement about the widows of Gedintailier in Portree before that?—I do not think it. I would always be speaking to them about rents.

Did you make a statement about the character of the widows?—No, no.

Were you rebuked by Norman Beaton about the filthiness of your language about these women?—Filthy language! I do not remember. I was not checked by Norman Beaton or any other.

The Sheriff objected to this, but Mr. Macdonald said he wished to show that the whole of the disturbance arose out of an attack made by Martin a short time before, on the character of the ladies who formed the major part of the crowd.

Mr. Macdonald—Did Widow Nicolson strike you?—No.

Did any one strike you?—No, but it was a narrow shave.

Did any one threaten to strike you?—Yes, Donald Finlayson with a stick.

And you did not attempt to proceed further?—No, not I.

Did you make any attempt to regain the doubles of your summonses? I just let them go.

I suppose you were glad to get rid of them?—Oh no, not in that way.

How far had you gone back towards Portree before you were again overtaken by the crowd?—Well, I think it would be about three-quarters of a mile. Malcolm Finlayson came up to me then, and I took the summonses out of my pocket. He snatched them from me, although I had a good hold of them. He did not return them, and I heard nobody tell him to return them to me.

You said some one tried to burn the summonses and failed?—Yes.

And then you said "I have a good breath," did you not?—I was hearing murmurs in the crowd that they would make me burn them, so I took a piece of paper and set fire to a bit of one of the summonses.

What did you say then?—I handed it to some one in the crowd, and immediately there was a great clapping of hands.

Now, did you not set fire to the summonses?—No, I set fire to a bit of one of them with a piece of paper which I lighted at a burning peat.

Did you not bend down and set fire to them?—No, I am quite certain I did not.

Did you not, Martin, in setting fire to these summonses say, "Now, keep back, boys, and give it air?"—I did not set fire to the summonses, but after they set fire to them there was a great cheering.

Did you call on the crowd to keep back and give it (the fire) air?—I may have said stand back, but not to give it air.

Now, why did you say that?—In order to please them.

Did you make a speech after that?—Yes, for their kindness. I thanked them because they had not struck me, and as I wanted to get rid of their company.

Did anybody say—"Angus, boy, you need not fear?"—Yes. That was at the first stage of the proceedings, when I said don't kill me.

Did you say you were not afraid of anything?—I said I was there independent of factor or anybody else.

Did you say you were not afraid of anybody?—Well, I might have said so.

Was that true?—No, it was not. (Laughter).

Did you say that all the people of the Braes would not hurt you?—Very likely.

And that was not true?—Well, I saw it was not true at that stage. (Laughter).

Did you tell any more lies that day?—Well, I do not remember. It is not my profession to tell lies.

You seem to practice it occasionally. (Laughter).

You asked for a smoke?—Yes.

Why did you ask for that?—I was not a smoker, but I asked for it to please them.

How long did you smoke?—For five or six minutes.

In answer to further questions, witness said that when leaving he shook hands with a number of the men in the crowd. He denied having advised the crowd, in his speech, to be smart and hard about Ben-Lee, and that they would get it. He had no whisky that day, and denied emphatically that he had lately been dismissed for drunkenness. He reported the case to the Fiscal when he went home.

Mr. Macdonald—Is this the first criminal charge against the Braes tenants?—No.

There was a charge of intimidation, but it broke down?—Yes.

Did you go to the Braes with the intention of serving these summonses?—Yes, and I thought I was safe in serving summonses in any part of Skye up to that time,

Is it not the case that you were sent to the Braes with the view of getting up a charge of deforcement against these people?—It was not, sir.

## EVIDENCE OF EWEN ROBERTSON, PORTREE.

Ewen Robertson, who spoke through Mr. Whyte as interpreter,



said—I am a labourer, residing at Portree. On the 7th April last, I went as witness with Angus Martin to the Braes with summonses. The ground officer, Norman Beaton, was also with us. When we came to Gedintailier we saw two boys, and they had flags in their hands on the point of a stick. They ran ahead of us. They were waving the flags, and ran away to a knoll on the low side of Gedintailier. When we went on we saw a man, and he came down where we were. A number of people collected, but I do not know how many. The crowd surrounded us. I knew the people, but did not see but Donald and James Nicolson. The crowd knocked me down three times. I was pushed down on the road. The crowd was much excited. I was hurt every time they knocked me down. I went off when I got on my feet. I heard them saying to us that they would kill us. I heard James Nicolson saying so. I did not hear Donald. After throwing the summonses down, Donald seized me by the back of the neck. Donald plucked the summonses from Martin and tore them, and then seized me. He did not throw me down, but caught me by the back of the neck and told me to lift the pieces, and I said there was no use of them. He told me where the summonses were. I was frightened at that stage, “and it was not little”. The crowd were excited, and I took myself away, and was followed by about a dozen youths throwing mud at me. I do not know who knocked me down, but I was thrown down three times. They also threw a pail of water at me, but I don’t know who did. When I ran away a great deal of stones and earth were thrown at me. Some of them struck me, but I was avoiding them as well as I could. It was only a few youths who followed me. The youths were among the crowd first.

You did not go back again?—Oh, indeed, I would not go. I did not see the summonses burned, and was frightened for my life.

By Mr. Macdonald—What is your occupation?—Anything I can do if I get payment for it.

Are you in the habit of accompanying Martin?—Yes, and his father before him for forty years, and others of the same kind before him, and nothing ever happened to me.

This profession I take it is not very highly respected in the Island of Skye?—I never heard anything about it. Before that time everything went on quietly, and we did our message and got the best in the house before we went away.

Did you see anything happen to Martin?—No ; I did not. I went away.

When you were asked in Portree to submit to precognition on behalf



of the Prisoners, what was your reply the first time?—I said who asked that of me.

Did you refuse to answer any question when I asked you?—I said I had been already examined, and until I would go before the judge I would not answer more questions.

You came the following day and gave information. What led to the change in your opinion?—Yes; I did that when I heard who it was.

Did I not tell you the first night who it was?—Oh, yes, you did. (Laughter).

What brought about the change?—I did not wish to be examined.

Did Martin tell you not to answer any questions?—He did not.

Did you see Martin that night?—Yes.

Where?—On the street at Portree.

At the hotel door?—Yes.

Waiting for you?—I do not know whether he was or not.

Did he tell you to refuse to answer questions?—No! he did not indeed.

How did Donald Nicolson come to get hold of the summonses?—He just came over from where he was and took them from him.

How long had Martin the summonses in his hand before Nicolson got them?—No time; and he said he had come to deliver the summonses with the Sheriff's warrant.

Did he take them out of his pocket?—Yes.

How long was that before Nicolson got them?—I cannot say what time. I had no watch.

Did Martin offer the men the summonses?—I did not hear him. The people would not take them from him.

Then he did offer them?—He did not offer them at that time.

Why had he the summonses in his hand?—There were some there for whom the summonses were.

My question was, why had Martin the summonses in his hand?—Oh, God! How could I know what they were in his hand for.

Did he offer them?—He did not require to offer them.

How long were you beside Martin at this time?—I was not long when I was thrust away by the people.

Did you know all the people?—I did not know them all.

Had they anything on their heads?—The women had handkerchiefs on their heads, but I do not know was it to protect them from the sun or hide them.

Why did you not lift up the summonses?—Why should I lift them when they were in pieces.

Who tore them?—Nicolson did.

Did you see him?—I will swear that.

Did you see the destruction of the other summonses?

Witness (before interpretation)—No.

Mr. Macdonald—This witness had good English a week ago.  
(Laughter).

Did you see any person touch Martin?—No, I did not see them.

Or Beaton?—No, I do not, but they might have killed him for all I know.

You ran home?—I ran back as fast as I could.

Did any of them touch you?—I am not aware of any of them touching me.

### EVIDENCE OF NORMAN BEATON.

Norman Beaton, ground-officer, said—I reside at Shullisheddar. I accompanied the sheriff-officer on 17th April last. I went to point out the places. He had summonses to serve at Penachorrain, Balmeanach, and Gedintailier. On coming near Gedintailier we saw two boys, and they ran away. We afterwards saw a man with a flag waving it. They came and asked where we were going, and Martin said he was going to serve summonses on them. He took the summonses out of his pocket. Alexander Finlayson said he would not allow them to go on. He said lifting his staff, “You won’t go any further”. He said, “Surely you all know me, I came here by order of the Sheriff”. Donald Nicolson took the summonses out of Martin’s hands and threw them on the road, but I could not say who tore them. I saw them in bits on the road. The people were gathering. There was about 150 altogether—men, women, and children and girls. I saw them all in the crowd. Martin I and returned back towards Portree. Robertson turned first, and after he left I saw him knocked down in the road. The crowd followed us when we turned back to Portree, and some of them were throwing stones and clods at us, near Gedintailier on the road. Not many of them struck me. Near Murchison’s schoolhouse, about three-quarters of a mile from the place where the summonses were destroyed, the crowd followed us, and amongst them were James Nicolson, Peter Macdonald, and Malcolm Finlayson. They were very much excited, and using threats. They ran after us, and asked if we had any more summonses. Martin said he had the principal summonses to bring them back to Portree. He took them out of his pocket and showed them, and Malcolm Finlayson snatched them out of his hand

and threw them in the road. They were not torn, and I could not say if they were afterwards torn. I saw peat lying beside them; it was alive. Martin stood on the road, and I stood nearer Portree. I saw smoke, but could not say if the summonses were burning. I was alarmed but not hurt, and afraid to go on.

Cross-examined by Mr. Macdonald—In what capacity did you go with Martin to the Braes?—I think I went as ground-officer—as Lord Macdonald's servant.

You did not go as Martin's concurrent?—I was sent there by Lord Macdonald's factor, by whom I was employed. Martin was not to pay me.

Were the crowd principally women and children?—Yes, and men.

Were they principally women and children?—No answer. Were there more women and children than there were men? I believe there were more men. To make three shares of them, I believe there were more men. More than one third were men.

You said that Robertson was knocked down by some women and men?—Yes.

He had gone away from the crowd at that time?—Yes.

When Martin came up first with the summonses, how was it he happened to take them out of his pocket?—They asked him where he was going, and what brought him there, and he took the summonses out of his pocket. He told them it was for that purpose he came. He kept the summonses in his hand.

Close to his body?—He held them out a little. He said, "Here they are". Donald Nicolson then took them. He was not very close to them, just past him a yard or two.

Was not this what took place? Did not Nicolson put out his hand and take them?—He was not so close as that.—Was Martin offering them at the time?

The Procurator-Fiscal—Martin did'n't say that. You are putting words in the witness's mouth he never used.

Mr. Macdonald—If I put a question, it is not the part of the Procurator-Fiscal to instruct his own witness what to say in answer to it.

Cross-examination continued—What were Martin's words?—He said, "Here they are". I swear he did not say, "Here they are to you". I will swear to that.

Were they pointed in the direction of Nicolson?—They were pointed in the way of the crowd as well as Nicolson. He was along with the crowd.

And he took the summonses?—Yes.

Did he offer them back to Martin?—I did not see that. I was close to Martin all the time and I did not see that. I was very close behind.

Might they have been offered to Martin without you seeing it?—They could not, and I did not see them offered. He tore the summonses. I could not see Nicolson put them on the ground.

Were they torn then?—No, they were not torn when he put them on the ground.

How long after you first saw them on the ground did you see them torn?—I could not say. It was some little time.

Did you see them in anybody's hand between the time you saw them on the ground untorn and when you saw them torn?—No.

The whole crowd was walking over them. I cannot say if that would account for the tearing of them. The band which bound the summonses was off when I saw them on the road. It was torn off about the time they were dropped upon the road. Nicolson took the band off and threw it upon the road. By the time I went down to the school-house, I was struck with stones and clods by some women—not by men—in the crowd.

Did you hear anything said by Mrs. Nicolson there as to the character of the women of Gedintailier?—I did not.

Did not you hear her say, "Now, come, women of Gedintailier, and hear your character from Angus Martin?"—I did. I heard her also say that he should burn the summonses. I heard her say that he was saying some words to her in Portree about the character of the women of Gedintailier. She told words to me herself at that time.

At what time?—At Olach. Not in the presence of Martin. It was said to me near Murchison's school-house. Martin was not there at the time.

She complained of the language Martin had used?—I cannot remember what words he had used. It occurred after the meeting of the Disaster Committee in Portree. I did not hear anything about the language till she told me there that day.

Is it not a fact that you and Lachlan Ross checked him for the language in Portree?—I can't remember of it. Was it filthy language?—Yes, very filthy.

And she referred to it this day at Gedintailier?—Yes.

After you got down to near Murchison's school-house the principal summonses were produced by Martin?—Yes. He was asked if he had any more of them, and he took them out of his pocket. He caught them in his hand and told me to bring them back to Portree. He did not offer them to Malcolm Finlayson. He said, "I have them here,

and I have to take them back to Portree". I did not hear him ask for a match. I heard some one in the crowd ask for a match to burn them. I did not see any weapons in their hands.

No sticks or anything of that sort?—No.

I heard Martin asking for a smoke from some of the crowd who were about. I think he got a smoke. I believe Martin was afraid.

And yet he asked for a smoke?—Yes.

How long did he stand smoking?—I could not say. I saw him on the road and some of the crowd speaking to him. It was about that time Mrs. Nicolson came, and there were some women with her.

She wanted Martin to repeat what he had said at Portree?—I could not say.

Did you hear Martin make a speech?—No, sir.

Did you observe her speaking to the crowd—can you tell us what was said?—No. I could not say how many he shook hands with. There was not many about that time. I was struck in Gedintailier with stones and clods by the women. They did not hurt me. I was struck at Olach with stones and clods again, but they did not hurt me. Some women were throwing them.

Did one of the men wipe off the mark of a clod on Martin's clothes with the sleeve of his coat?—I saw that done to Martin. A woman before that had taken a handful of turf and rubbed it on his jacket.

Did one of the men come and wipe it off with his sleeve?—One of the men of the crowd came and wiped off the mark with his coat.

Mr. Macdonald here turned to consult his notes, and witness, who was apparently getting rather uneasy, hurriedly left the box. Mr. Macdonald, without turning fully round, put the question, "Did Martin make a speech," but getting no answer he found to his surprise that the box was empty, and the witness escaping rapidly by the door of the Court-room. He was recalled amidst much laughter, and, having answered a few questions, was allowed to go.

## ESTATE MANAGEMENT IN SKYE.

### EVIDENCE OF MR. MACDONALD, FACTOR FOR LORD MACDONALD.

Alexander Macdonald, factor, examined—I am a solicitor at Portree, and act as factor for Lord Macdonald. In the middle of April, I instructed summonses against Donald Nicolson, Balmeanach; Alex. Finlayson, do.; Samuel Nicolson, do.; John Nicolson, do.; James Matheson, Widow C. Matheson, Widow C. Nicolson, Widow Mac-



kinnon, John Stuart, and Donald Macwilliam. I instructed Martin to go and serve the summonses, and he proceeded to do so.

Cross-examined by Mr. Macdonald—Is Martin your clerk?—Yes, and has been so for a long time.

How long has he been so?—I think he entered my office first, at the very beginning, and then he went to Glasgow, and came back, and has been with me for the last eight or ten years.

From the beginning of what?—Of his career.

How many years will that be?—I cannot tell you, Mr. Macdonald.

He was in your office before he became sheriff-officer?—Yes.

Is he your clerk still?—Yes.

Was he absent for a time recently?—Well, I think he was.

What was that for?—I cannot tell you. I was away (a pause). Let me see (another pause). I think I was away in the south somewhere, and when I came home (a pause)——

Mr. K. Macdonald—Oh, don't be afraid—(laughter).

Witness—I am not afraid at all. I beg to assure you——

Mr. Macdonald—Well, go on then.

Witness—I was absent from the office lately, and, during my absence from home, I understand he was absent.

The Sheriff—What was the cause of the absence?

Witness—I don't know. He was absent when I returned. I think he was absent for a fortnight, or nine or ten days.

Did you enquire what was the cause of his absence?—No, I did not enquire particularly.

The Sheriff—Did you not enquire at all?—Yes.

By Mr. Macdonald—And what was the result of your enquiries?—I heard a suspicion cast on him by some people that he was rather unsteady, but I do not think it is true at all.

Did you dismiss him?—No, certainly not.

You took him back whenever he came?—I forget the circumstances. I was not prepared to speak to this. I took him back.

And made little enquiry?—I asked of his mother and wife, but I don't remember much about it,

Martin is your clerk and a sheriff-officer. Does he hold other offices?—He is clerk to the Road Trustees and collector of rates for the parish of Snizort, about five miles from Portree, and collector of poor rates for Bracadale, nine miles away. I do not recollect if he is collector for any other parish.

How many proprietors are you factor for besides Lord Macdonald?



—Macleod of Macleod, Mr. Macallister of Strathaird, Mr. Macdonald of Skaebost, and Major Fraser of Kilmuir.

I suppose that is the greater part of Skye?—Yes, decidedly.

And in addition to this you are also a landed proprietor yourself?—Well, I believe I am. (Laughter).

You are also a solicitor and bank-agent?—Yes.

And I believe you are agent for Captain Macdonald of Waternish?—Oh, I have a number of appointments besides these, and lots of clients.

And your influence extends all over the Isle of Skye?—I do not know about my influence, but I hold the positions mentioned.

You are distributor of stamps?—Yes.

And Clerk of the Peace for the Skye district?—Yes, Depute under Mr. Andrew Macdonald. (Laughter).

Any other offices?—I may have some, but I do not remember any more. I do not see what right you have to ask these questions. Do you mean to assess my income? I will tell the Assessor of Taxes when he asks me, but you have no right to inquire.

You are also a coal-merchant?—I am not aware, Mr. Macdonald. (Laughter).

And how many School Boards and Parochial Boards are you a member of?—Several.

The Sheriff—I don't want to interrupt you, but what has this to do with the case?

Mr. K. Macdonald—To show that this gentleman is the King of Skye—the uncrowned King of the Island—(laughter)—an absolute monarch who punishes a murmur by transportation to the mainland. There are some other offices which you hold in Skye? Witness—Yes.

Mr. Macdonald—In point of fact, you and Martin hold between you pretty much all the valuable offices in Skye except that of parish minister?—(great laughter). Witness (warmly)—Not all, sir; not at all—(laughter).

Did the people of the Braes petition you about Benlee?—They lodged a document, but I do not call it a petition. I call it a demand or ultimatum. The witness read the document, which was to the effect that the petitioners “demand” the grazings of Benlee, otherwise they would not pay their rents.

Mr. K. Macdonald—These people of the Braes are not very well educated? Witness—Some of them are.

What did you do with that petition when you got it?—I kept it.

Did you send it to Lord Macdonald?—No, but I wrote to Lord Macdonald about it.

Did you make any inquiry on the spot as to the grievances of these people?—I understood what they meant by the petition itself.

Did you make any inquiry to ascertain if their grievances could be substantiated?—Yes, I made inquiries of a number of people.

Did you go to the place to make the inquiries?—No, I do not require to do that, as I know the place perfectly well.

Is the statement which they made true or not?—I believe that the demand for the exclusive possession of Benlee is not a well founded claim.

The Sheriff—That is irrelevant ; we need not go into that matter.

Mr. Anderson was of the same opinion, but would not object.

Mr. K. Macdonald—If your lordship wishes me to stop, I will do so. I am probably outside of the immediate issue now, but I am led on by the hope that if an explanation is now made of the position taken up by Lord Macdonald and his factor in relation to the demands of the prisoners and their neighbours in Skye, an arrangement may be come to which will prevent a recurrence of the events which have led to the present trial.

The Sheriff—If any opposition was taken by the prosecution, I would stop this course of examination at once.

Mr. Anderson—I do not object, my lord.

The Sheriff—I do not see what bearing it has on the case.

Mr. K. Macdonald—Did these people refuse to pay their rents until the grievances complained of were inquired into and redressed?—Until they got Benlee. I sent them circulars and letters, copies of which are produced.

You state in the printed letter that they have each  $6\frac{1}{2}$  acres arable land, with a right to keep 5 cows, 20 sheep, and 1 horse?—Yes.

Did you ascertain the accuracy of that statement before you made it?—I have only acted as factor for two and a-half years, and that statement regarding the townships was given to me shortly after I entered, and I think it is quite correct.

Are you not aware now that, if these tenants would put all these cattle and sheep on the ground, they would die from starvation?—I am not aware of anything of the sort, sir, but we are quite prepared to look into that. The request was never civilly made.

Did a deputation of these people come to you in November last?—There was a deputation of their sons, but there were no tenants except one.

An old man of 85?—I do not think he was 85. I told them the tenants must come themselves, and not their sons. I saw this man

Nicolson, but I do not think Nicolson came into my office, though I met him on the street.

Was there a man Angus Stewart there?—Well, I don't remember.

Was not Angus Stewart, a tenant of Lord Macdonald for the last 65 years, their principal speaker?—You refer to a different occasion.

When was that?—When they came arm-in-arm and shoulder-to-shoulder with a piper at their head. (Laughter).

Is it not the case that they were met by this piper, who plays for money in Portree?—On the first occasion there was no piper, but on the second occasion they came with this piper, and would scarcely listen to me. They never came quietly to me. (Laughter). The time they came with a piper they entered the rent collection room and would scarcely listen to me. I called over their names to see I had nobody but tenants to deal with.

What was the object of this, Mr. Macdonald?—I told you before that it was to ascertain that I had nobody but tenants to deal with.

No intimidation in it?—I do not believe the men were ever afraid of me, nor that they are so yet. (Laughter). I do not see why they should be so unless they were doing wrong.

Did you prefer a criminal charge against some of these men before this charge was made?—Two widows——

Mr. Kenneth Macdonald—Never mind the widows.

Witness (excitedly)—You have asked me a question, and I must answer it.

The Sheriff—Did you make a criminal charge against these people?

Witness—I cannot answer no or yes, but two widows came to me weeping, saying they had been intimidated by a number of men in the Braes for paying their rents, and I went with these two widows to the Fiscal.

Mr. K. Macdonald—Was there a charge of intimidation made to the Fiscal?

The Sheriff—He says the two old ladies——

Mr. K. Macdonald—They are widows, my lord, but not old. (Laughter.)

The Sheriff—The question is a simple one. Did you or did you not?

Witness—They made a charge of intimidation.

Mr. K. Macdonald—But the charge fell through?—Not so far as I know.

When did you hear the last of it?—I do not know if I have heard the last of it yet. (Laughter.)

Did you hear that Crown Counsel had ordered no further proceedings to be taken on that charge?—Yes.

Was it after that you caused the summonses of removing to be prepared?—Yes, but the one thing has no connection with the other. There may have been a coincidence of time, but there was no relation between the two cases. The summonses were for ejectment for non-payment of rent.

Was it not the fact that Martin arranged to be deforced before he left Portree?—Certainly not; he did not expect it. (Laughter.)

The Sheriff—Is Martin a native of the Braes?—No; he is a native of Portree. His people belong to Kilmuir.

Mr. K. Macdonald—Is it your practice to issue summonses of removing that you have no intention to enforce?—No, of course I do not enforce them if the cause for which they were issued has been removed.

Question repeated?—No, but they may not be followed out, because if the rent be paid there is nothing more about it.

Then you intend to evict these people?—Certainly, if they do not pay their rent, or show good reason why they should not.

Had you Lord Macdonald's authority for evicting these people?—I did not want to evict them, nor do I intend to evict them if they pay their rent.

Mr. Macdonald—Kindly answer my question. Had you Lord Macdonald's authority for what you did?—I cannot give you a more direct answer. I believe I said something to Lord Macdonald that it would be necessary to do something to the ringleaders. I did not ask for any instructions to evict, but said it would be necessary to warn them out for not paying their rents.

Had you Lord Macdonald's authority for evicting these people?—I did not require his authority for that.

The Sheriff—Were your instructions special or general?—I had no special instructions, as I did not ask for them.

Mr. Anderson—When you got the petition, Mr. Macdonald, did you write to say that they would get the hill according to the value of the present day, and expressed your wish to have it valued by an experienced person, and sent to Lord Macdonald for his consideration?

Witness—Yes, but I got no answer from them.

Did you also offer them Benlee?—I offered them Benlee if they would pay for it, and would give a lease of it to any tacksman who would come forward.

The Sheriff—That will do.

Witness—(sharply)—Are you done, Mr. Macdonald? (Laughter.)

Mr. K. Macdonald—Oh, yes.

#### PRISONERS' DECLARATIONS.

The prisoners' declarations were then read. They are as follows :—

Donald Nicolson, Balmeanach, sixty-six years of age, declared—I know Angus Martin, Portree, and I know that he is a sheriff-officer. I also know, but only by sight, Ewen Robertson, residing at Lisigarry, Portree. I also know Norman Beaton, ground-officer, Portree. I saw the three of them at Braes about a fortnight ago. They were on the township of Gedintailier, and there was a crowd about them. We were hearing that they were going up with summonses of removing. I was in the crowd, and I saw papers in Martin's hand. I could not tell what they were.

Did you take the papers out of his hands?—He knows himself. There were plenty of witnesses if they saw me do so. I did not catch hold of Ewen Robertson or touch any one there; neither did I throw anything, nor was I swearing. I asked Robertson to lift up the papers which were at the time scattered on the road.

James Nicolson, son-in-law, residing with the above Donald Nicolson, is 30 years of age. He knew Martin to be a sheriff-officer, and he also knew Robertson and Beaton. He saw the three of them at Gedintailier on the occasion in question. The Declaration continued—There was a crowd about them when I saw them. I joined the crowd. I knew that it was with summonses of removing they had come. When I joined the crowd I did not cry out to kill Martin. I have no recollection of saying, or hearing said, that even with the support of the Volunteers no one would dare to come to Braes to put us out. I saw Martin having papers. I did not know what the papers were, but I thought they were the summonses. I saw Martin handing out the papers, and some one taking them out of his hand, and I afterwards saw them on the road torn. I did not see Ewen Robertson down on the ground. I saw a crowd of boys and girls after him along the road. They were saying that I was cursing and swearing, but I was not, and I did not put a hand on any one that day or on the papers which the sheriff-officer had. I did not think there was any harm in anything I saw done.

Peter Macdonald, Balmeanach, aged 48, and married, said he heard that Martin was a sheriff-officer. He saw Martin and Beaton at the Braes, but not Robertson. He was not present when Martin arrived. The Declaration continued—We were thinking it was with the summonses of removing he (Martin) came. There was a crowd gathered



about him when he arrived of about 150 women and children. I did not see papers with him until I saw them on the road at Olach. I saw them before they were burnt. The crowd called out—that is, the women called out—that Martin and his assistants would require to burn them themselves. I did not say to Martin that he would be made to burn them himself. It was at Olach that I joined the crowd. I have nothing further to say but that Martin burned the papers himself. The place Olach above alluded to is about half a-mile from Gedentailler, in the direction of Portree.

Alexander Finlayson, Balmeanach, 70 years of age, declared that he did not know until Martin arrived that he had come to the Braes to serve the summonses. He was not present when Martin arrived, and he saw him first among a number of men, women, and children at Gedentailler. He did not know that Robertson was helping Martin. The Declaration continued—I told him to return and burn them. At this time there was some torn papers scattered about the road, and it was to these papers I referred. The papers were torn and on the ground before I joined the crowd. I did not know that these papers were summonses of removing, but some of the people were saying that they were. I did not know that Martin was going with summonses to us that day, but we were hearing a rumour that we were to be warned. I did not dare Martin to proceed further with his summonses that day. I had a staff in my hand. I was not flourishing it. I did not hear Martin say that he had the Sheriff's warrant for serving the summonses that day. I thought we ought to get justice concerning the matter in dispute, which was the hill pasture of Benlee, which we ever had. When had you the pasture?—We had it ever in connection with our town-ships. It was taken from us about sixteen years ago by bad rulers. We have not possessed it for the last seventeen years. It was let to another tenant. I and my father before me, and my grandfather, great-grandfather, and great-great-grandfather, have been living in the township of Balmeanach, and the hill of Benlee was all that time connected with our township.

Alex. Finlayson, son of and residing with the said Alex. Finlayson, Balmeanach, is married, and about thirty years of age. He saw Martin at the Braes on the day in question. The Declaration continued—I did not know then that Martin was a sheriff-officer. I only knew that he was the factor's clerk when I saw him at the Braes on that occasion. Martin had a bunch of papers. I did not know what the papers were, but he told us they were summonses, some of removing and some of rent. I did not take these papers out of Martin's hands, but after seeing them in his hands, I saw them torn and scattered on the road. I



saw some of the papers which Martin had burnt at Olach that day, but these were different papers from those I saw scattered on the road at Gedentailler. It was I who took the papers which were burnt at Olach out of Martin's hand. He stretched out his hand holding these papers, and I took them out of his hands. Somebody said I should not take them, and I offered them back to him, but he would not take them, and I let them fall on the road. At this time there were a good many people about Martin, and some of them cried out to burn the papers, but I am not sure whether I said this or not. Martin then asked for a match, but there was no match to be found. A lighted peat, however, was produced, and Martin set fire to one of the summonses, and then the whole caught fire and were burned. The crowd did not very much force Martin to burn the summonses. They told him to burn them, and he did so. The crowd did not call bad names to Martin, but he told the people he would be put out of his situation by the factor if he had not come to give them the summonses that day. They did not say anything worse than his name to him. I told him to move on, as I was afraid the scholars and women would come and hurt him. He then asked us to see him safe over the burn, and we did so.

#### THE EVIDENCE FOR THE DEFENCE.

Mr. Donald Macdonald, Tormore, examined by Mr. K. Macdonald—You were factor for Lord Macdonald until about two years and a-half ago?—Some time about that.

You know the Braes?—I do.

When you were factor did the tenants of the Braes townships complain to you about the want of the hill of Ben-Lee?—They may have done. I have no distinct recollection about their making any specific charge.

You know the story about the shepherd's house being built, about which some of the crofters complained?—Yes.

What did you do?—Well, the complaint was that the tenant of Benlee was building a house on a portion of what they considered their land.

The Sheriff—All this occurred two or three years ago, Mr. Macdonald?—Yes.

The Sheriff asked Mr. K. Macdonald if he meant to justify the action of the prisoners by this evidence? He did not see that it had any relevancy.

Mr. K. Macdonald—It has a bearing on what followed.

Mr. K. Macdonald (to witness)—There was a lease of Benlee which expires at Whitsunday 1882. Is not that so?—I believe it does.

And the people wished to get the land back at that term?—There was some indication that way.

Did you make them any promise?—I made no promise.

Did you hold out any hope?—No; certainly no distinct hope.

Then, was it from you they got their information?—I don't remember, but it is quite possible.

Did you renew the lease during your factorship? I believe I did.

For a further period?—Yes. And without informing them? I don't remember, but it is quite possible.

In answer to Mr. Anderson, Mr. Macdonald said Benlee had not been in the possession of the crofters for the past 16 or 17 years.

The Sheriff.—Benlee is advertised to let now.

Mr. K. Macdonald—Yes, in the *Courier* of to-day.

Mr. A. Macdonald, factor—And the tenants may have it if they like to pay rent for it.

### EVIDENCE OF CROFTERS.

John Finlayson, a tenant of the Braes, said, in reply to Mr. Macdonald—I was at the Braes when Martin arrived, and saw him with the papers in his hands. He handed them over to Donald Nicolson, who took them and threw them back to Martin, who turned his back, and I think refused to take them back. Some one in the crowd said to Nicolson that he had no right to the papers, and he then dropped them on the ground, and the children trod upon them. No one struck Martin, or even threatened to strike him. I heard some one saying to Martin, “Be not afraid, no one will touch you”. Robertson at this time had gone homewards, the children following him. Martin also followed, but after he had gone some distance he stopped, and asked for a light. He got an ember of a peat, with which he set a paper (a paper about the size of a summons) on fire, and put some more with it. He said, “Stand back and don't smother it,” and added, “There it is for you, boys”. He appeared to be laughing, and did not seem to be afraid. He afterwards had a smoke and chatted with the people. He made a speech before leaving, in which he said, “Be hardy and active; you will not see me again, and you will get Benlee”. He also said he did not blame them for what they had done, and said if he had been in their place he would have done the same thing. He shook hands with a number of people before leaving. I did not see any person strike Martin.

By Mr. Anderson—I joined the crowd when they began. I went there just because I followed the rest.

You saw some boys with flags on the watch?—There were.

And what were these boys to do?—They were to give us notice.

Of what?—About the force that was being sent to us.

Was that a sheriff-officer you expected?—We did not know that it was a sheriff-officer.

Did you expect Martin?—No.

Did you expect summonses?—Yes, I expected a summons.

Now, was it for persons coming with summonses that you placed the boys on the watch?—Yes.

And it was arranged that as soon as a boy saw them he was to give warning?—Yes.

And you were to collect then?—Yes.

Mr. Macdonald objected to this line of examination, as being really an attempt to prove the charge of Deforcement which the Prosecutor had not been able to libel relevantly. The Sheriff however allowed it.

Was it said that he would not be allowed to serve a summons?—I did not hear that.

What were you going to do when you met the persons coming with the summonses?—To return them.

That is to return him to Portree?—I do not know where. (Laughter.)

I suppose you know that you were to turn him off the Braes?—Yes, we were going to turn him off the Braes.

Are you any relation of Finlaysons in the box?—I am a brother of Malcolm's and a son of Alexander Finlayson.

Did you see any stones thrown?—No.

Nor clods of earth?—No.

Nor peats?—No.

Did you see Robertson on the ground?—Yes.

Did you see him lying on the ground?—No.

Did you see anybody touch him?—No.

What became of him?—I saw him going away, and the children were cheering him home. (Laughter.)

Were they throwing anything after him?—I did not see, I was far from him. Witness saw only two of the prisoners, Malcolm Finlayson and Patrick Macdonald following Martin to the second crowd, near Murchison's schoolhouse.

Alexander Finlayson, Peinachorrain, was at Gedentailier on the day when Martin came with the papers. He knew that Martin was the factor's clerk, but did not know that he was a sheriff-officer. The papers were lying on the road when he saw them first, and Martin was laughing and talking, and did not appear to be frightened. He

generally corroborated the previous witness regarding the burning of the papers, and said he did not see any stones thrown at Martin. In answer to Mr. Anderson, he said he was a son of Alexander Finlayson, one of the prisoners, and brother of Malcolm Finlayson, another of the prisoners. Martin did not seem to be in the least afraid.

James Mathieson, on being asked to take the oath in English, declined. He said—Oh no. All the speaking in this case has been done in Gaelic, and I am not going to interpret Gaelic into English. (Laughter.) The oath having been administered in Gaelic, he said he resided at Balmeanach, and was at Gedentailier on the 17th April when Martin came to serve the summonses. When the people came up Martin held out some papers in his hands. He held them out in the direction of Donald Nicolson, and said, "There they are, take them". I don't know whether he said this to Nicolson or to the rest of the people. Nicolson, however, took them. He did not snatch them from Martin, and Martin did not endeavour to keep them from him. In answer to other questions, witness said Martin did not appear to be frightened, and had no occasion to be so.

What occurred near Murchison's schoolhouse?—I saw him with more papers there. When I arrived he had them in his hand as at first. He was offering them to anyone who would receive them. I don't know where Robertson was. He went along before them. I don't know if they were following him at that time, but they were before that, and some children.

Was Martin quite sober at that time?—Well, I don't know. I would think him like a man that would have a little.

Did you hear Martin ask for a match?—Yes. He said, Was there one there had a match? They replied that they had a burning ember for lighting his pipe. After this Martin asked where it was. They said, It was here. I was standing at the side of the road, and I saw him go over by the papers. I saw him point to them and say, "Lads, there is a fire, stand back and don't choke it". I saw the papers on fire after that. I saw him drink at the well. He was inclined to bend at the well, but they told him there was a pail. He asked, Have any of you a pipe till I smoke? Alexander Nicolson went to give him his pipe, but it was broken. Nicolson then went to get another man's, and after cleaning it so (here the witness made a movement as if wiping a pipe clean) he handed it to Martin, and Martin smoked it. He (Martin) was in the very middle of the crowd smoking it.

Was he talking to them and smoking?—Yes, smoking and talking. I did not see any appearance of fright about him. There was no occasion for his being frightened.

Did you hear Murdo Nicolson say anything to him?—I heard some one say, I am not very certain if it was Angus Nicolson, but I heard some one say, “No one here will do anything to him”.

What did he say to that?—He said, “Oh, I had no fear. I know that the Braes people will not do anything to me.” He was shaking hands with the people before he went away. He was shaking hands and thanking them for dealing so gently with him. He told them to be active after this, as it was now they had it to do. I don’t know what he meant by that. I did not hear him say he was a sheriff-officer, or that he came from the Sheriff. I know he is the factor’s clerk in Portree. I thought the “bailie” sent him there that day. I saw the widows standing up as if they were speaking to him. One of them, Widow Nicolson, seemed to be angry. I did not hear Martin say anything to her at the time. She was done speaking to him before I came. I don’t know what they were talking about, but people were telling me afterwards. I did not see anyone touching Martin other than to shake him by the hand.

John Nicolson, Gedintailier, gave corroborative evidence. He saw no one putting a hand on Martin, and said Martin seemed quite pleased, and put the papers on the top of the fire.

John Nicolson, Peinachorrain, also gave evidence regarding the proceedings at Martin’s visit. He saw no stones thrown. In cross-examination by Mr. Anderson, he admitted that clods had been thrown by the school children, but if Martin was frightened it was only at seeing so many women. (Laughter.)

John Maclean, Balmeanach, described the scene at the schoolhouse where the papers were burnt. He said Martin stepped into the centre of the crowd, and getting a fire-brand blew it until he had lighted the papers. He then set them on the ground, and said, “Men of the Braes, I am obliged to you for your kindness”. He appeared quite hearty, and shook hands with the people. There was no reason for Martin fearing anything. He added, I was in the factor’s office in November last as one of the deputation. Our names were taken down at that time, and we were charged with impertinence. The factor was sending us letters after that threatening us.

This brought the evidence to a close.

Mr. Anderson did not address the court, but simply asked a conviction for assault.

Mr. Macdonald began by showing the effect upon the indictment, of the judgment sustaining his objection to the



relevancy of the charge of deforcement, and the minor charge of obstructing an officer of the law in the performance of his duty ; and he read what was left of the indictment, to show that all that remained was a charge of simple assault against the prisoners. He went on to say :—When I first addressed your Lordship to-day, I attempted to show that the case as it then stood was too important for trial in this court. It has now been reduced to such slender proportions that the wonder is it was ever brought into any court. It has been attempted, by leading irrelevant evidence, to give the case a fictitious importance, but the prosecutor has been flogging a dead horse. A common assault such as is now charged would never have justified the measures taken to apprehend the men now in the dock. Would the public have looked on in silent wonder if they had been told that the army of policemen sent to Skye had been sent there to apprehend a few men—most of them old men—whose only crime was that they looked on while a few respectable women threw dirt at a man who had slandered them. I rather think they would then do what those of them who have not to pay for it will do now—they would laugh outright. I really feel some difficulty in discussing seriously the very small mouse which this mountain in labour has brought forth. The charge is assault. What is the evidence in support of it ? It is certainly not the sort of evidence usually led in cases of assault. We heard of a sheriff-officer being sent from Portree to serve writs at a place nine or ten miles away, of his seeing boys with flags and afterwards being met by a crowd of people, of his papers being burnt by himself, and of his making a speech thanking the people for their kindness to him, and encouraging them to persevere in their demands ; but very little, and that unreliable, of an assault by anybody, nothing of an assault by the men



at the bar. In fact the public prosecutor never anticipated having to prove a charge of assault, and had no evidence to support it. The turn the case took when the Court held his main charges irrelevantly stated had taken him by surprise, and he ought then to have thrown up the whole case. He had not done that. He had led evidence which showed that the prisoners had done certain things which might or might not be criminal, but which certainly did not constitute the crime with which they now stood charged, nor, for that matter, any of the crimes with which the indictment, as it originally stood, sought to charge them. The prosecutor had not stated the grounds upon which he asked for a conviction on the charge of assault,—there were none to state. The only hope he could have was that the Court would convict them of a crime of which they were not guilty, because the evidence showed that they came near committing another and a totally different offence with which they could not be charged. If this was the hope of the prosecutor, he hoped it would be disappointed, and that these men would not be convicted of a crime of which they were not guilty simply because some victims were required to shield officials from the charge of playing a huge practical joke at the expense of the public. I shall now, with your Lordship's permission, go over the evidence shortly, and I think I shall be able to show that there is no evidence—no reliable evidence—that any one of the accused committed an assault, while there is a considerable amount of reliable evidence to show that not only was no assault committed, but that Martin and the ground-officer were on the best of terms with the prisoners while they were together—terms so friendly that the idea of an assault having been committed during the interview is utterly precluded. As to Robertson, he was clearly not a popular favourite, and he retreated

towards Portree at an early stage, followed by some children. If he was assaulted at that time, the prisoners were no parties to it. Robertson was, however, the only person who was said in evidence to have been touched by one of the accused ; but the evidence on that point came from so suspicious a source, and was, as would be shown immediately, so strongly contradicted, that I have no hesitation in asking your Lordship to disbelieve it. Mr. Macdonald then proceeded to review the evidence for the purpose of showing that Martin, Robertson, and Beaton had contradicted each other in important particulars in their account of what had taken place, and that the story told by the witnesses for the defence was consistent throughout, and entirely inconsistent with those of Martin and his associates. Martin, he said, had to account to his master, the factor, for his failure to serve the summonses, if, indeed, it was not intended before he went that he should fail ; and this was the story he told on his return. The enlightened management of Lord Macdonald's estates in Skye by his omnipotent and unapproachable factor had brought about a state of matters which the usual machinery of the factor's office—summonses of removing and occasional evictions, supplemented by threats of undefined pains and penalties—was unable to deal with. An attempt even to get up a criminal prosecution had failed. What more natural, then, than to get up a sensational charge which would bring a large force to the rescue of the powerless factor without expense to his employer. I do not say this is the explanation of what took place, but it is a possible interpretation of the evidence, and it would go a long way to account for the peculiar "coincidence," as Mr. Macdonald calls it, that while the criminal authorities intimated the abandonment of the first criminal charge on 1st April, the attempt to serve the summons of removing was made on

the 7th of the same month. Be that, however, as it may, the evidence which, by the forbearance of the Court, I was permitted to lead, showed that the present unhappy state of matters among Lord Macdonald's tenants was entirely attributable to mismanagement on the part of successive factors. Before 1865 those people were comfortable and contented. They had their patches of arable land near the sea and the hill grazings beyond. The grazings were on Benlee, of which so much has been heard. The rent for both lands was paid in one sum, and was fixed on the basis of the number of cattle, sheep, and horses each tenant was able to keep. In 1865, however, a factor deprived them of the hill while their rents remained the same. They were pushed down towards the sea-shore, and there, under the shadow of their mountain, and a few inches above highwater mark, on what was at no very distant date a sea-beach, they eked out a precarious living from their patches of mixed rock and sand, dignified with the name of arable land. For years these people went on uncomplainingly, while year by year they became poorer. Their horses first went,—in 1865 every man had a horse—most of them several; now there is not a horse for every three tenants. Then the little stocks of sheep and cattle gradually dwindled down, while all the time their owners were paying rents for the grazing of three or four times the number of sheep and cattle the grazings left to them would feed. At last the inevitable came—the people saw starvation or pauperism staring them in the face, and they made a humble appeal for redress. To whom? To Lord Macdonald? No! To his factor, and the factor made fair promises—at least so say the people. He told them, they say, that the hill was let on lease, but the lease would expire in 1882, when they would get it. How does he keep his promise? Several years before 1882, he,

without saying anything to the crofters who were patiently enduring poverty and hardship waiting for the fulfilment of his promise, let the hill on a new lease, and then leaving this little complication for his successor to settle, he resigned his factorship. The successor was Mr. Alexander Macdonald. It was Mr. Macdonald's misfortune that in his time the crofters found out how they had been deceived, and that, not taking the trouble to understand their grievances, he threatened them when he ought to exhibit at least the appearance of sympathy, and to attempt to conciliate them. To the crofters Martin was simply the factor's clerk, Beaton the factor's underling, and with the factor and all his belongings they resolved to have nothing to do. To Lord Macdonald they must appeal. They believed that he had never authorised the harsh measures adopted towards them, and the evidence led to-day shows that their belief was well founded. Lord Macdonald, in whose name these proceedings were carried on, never authorised them, was never even consulted about them. Proceedings which had for their ostensible object the eviction of the inhabitants of three townships,—several hundred people in all,—were not important enough forsooth to lead the factor to consult his master. The people knew well that less than thirty years before similar proceedings had been carried out to their bitter end in the name of their landlord's father without his authority, and they knew that to the day of his death that Lord Macdonald bitterly regretted these proceedings. Well might they believe that this Lord Macdonald would not lightly consent to their wholesale eviction and expatriation. They knew, and he knew, that the strong arm of *their* ancestors was the only title deed by which *his* ancestors held their land, and that but for the sturdy clansmen of the Isles, Lord Macdonald would not now hold an acre of land in Skye. It was not, therefore, the

law in the person of its officers, it was not even their landlord, these men resisted, it was the factor—the man who was in their eyes the impersonation of all the injustice and hardship to which they had been subjected, and I ask was there not some justification for their resistance? This being the position taken up by the accused and their neighbours, was it probable that they would degrade themselves and their cause by assaulting a person in Martin's position? I think not. Further, was Martin's own story consistent with the theory of an assault? Would a man who had just been assaulted, and who was in mortal terror, as Martin says he was, find himself so sound in wind as Martin admits he was. When a lighted peat was procured to burn the summonses, some of the men in the crowd tried to blow it into a flame but failed. Martin, however, notwithstanding his terror found himself, as he admits, "in better breath" than his alleged assailants, and succeeded in blowing the peat into a flame when they had failed to do so. (Laughter.) Though terror-stricken and in mortal fear he managed somehow to enjoy a smoke quietly. When he wanted a drink of water he was not afraid to go off the road to a well, and to go on his knees and dip his head into it. It never occurred to him that this dangerous crowd finding his head in the water might keep it there. He gauged the crowd correctly enough as his conduct showed. He stood among them, chatted with them, drunk out of their pails, borrowed and smoked one of their pipes, and on parting made them a speech. That was the evidence of the prosecution, as well as of the defence. The Prosecutor did not make an attempt, after hearing the evidence, to argue that Martin had been assaulted. To do so in the face of such evidence would be an outrage on common sense. Mr. Macdonald concluded by asking for a verdict of not guilty. (Applause.)



## THE PRISONERS FOUND GUILTY—THE SENTENCE.

The Sheriff said—The charge now is one of assault against these men combinedly or against one or other of them, “actor or art and part,” so that if the prosecution has proved that one of them assaulted one or other of the men said to be assaulted, and that the other prisoners aided and abetted them in that assault, that, I take it, would be sufficient to enable me to find the whole of them guilty as libelled. Throwing aside all that is really unnecessary, the simple question for me to determine is this—Did these men “or one or other of them” do something to one or other of the three men, Martin, Beaton, and Robertson, which in the eye of the law is assault? Now, it is quite true that there are certain discrepancies in the evidence which has been adduced. There is no doubt whatever that the witnesses for the defence do not support the evidence for the prosecution; but the evidence for the defence confirms to a very great extent the statements that are made by the principal witnesses for the prosecution. And part of the evidence of the defence is really of a mere negative character. Certain of the witnesses—the first three—say that they were not present at the beginning of this disturbance. They came to the ground after the papers were taken out of Martin’s pocket. Now, Martin says that when he came to the place he had the papers in his pocket, and they were only taken out of it when he was asked for them. I may mention, before proceeding further, that I see no reason whatever to doubt Martin’s statement. Martin gave his evidence fairly, and in a way which convinced me at least that he really was telling the truth, and I do not think there was anything in his cross-examination which tended to render Martin’s evidence untrustworthy. Now Martin says that Donald Nicolson



took a leading part in this affair, and he stated that Donald Nicolson caught hold of Ewen Robertson by the back of the neck "and called out to me in language which was not very polite," but it had reference to things which had taken place before then. Robertson tells us more particularly how Donald acted after the summonses had been plucked from Martin. He laid hold of him by the neck and so on. Now, I take it that this is an assault within the four corners of this complaint. It will not do for any one to say that because five or six witnesses did not see this that the affair did not take place. There is the direct evidence of two witnesses which is a great deal better than the indirect evidence or negative testimony of a score. Therefore, if Robertson's and Martin's evidence were true, Donald Nicolson was guilty of an assault. Now, if Donald Nicolson was guilty of an assault, the question will then come to be, what part did the others take in regard to this? Donald Nicolson, according to Martin, came forward and took the papers from him. The next person who comes on the scene is Alex. Finlayson, and the proceedings that he adopts are certainly of a most threatening character. There is no doubt whatever that he had a stick in his hand, and the testimony given by Robertson and others is that he comes forward and threatens them, flourishing his stick and daring them to proceed further. And then he proceeds to tell us of the throwing of stones, in which Finlayson took an active part, and in this way he became "art and part" with Nicolson in the assault upon these men. I therefore take it that when you have Nicolson behaving as he had done, and Finlayson being there with him, and taking the part he did, that Finlayson is guilty of the assault as a party—as one acting art and part with Nicolson. Then the next persons who come before us are James Nicolson and the other two.

These three men are not said to have done anything except to be accessories along with these people. Peter Macdonald, indeed, after a time, comes to make himself conspicuous by telling Martin that unless he burns his papers, Martin would not get home alive ; but there is no evidence of Macdonald doing anything in particular beyond threatening Martin and the others. Malcolm Finlayson appears afterwards near the schoolhouse, and all three form part of the threatening crowd. It appears to me, however, that Peter Macdonald, Malcolm Finlayson, and James Nicolson did not take that conspicuous part which Donald Nicolson and Alexander Finlayson took. And, therefore, although the case against each and all of these prisoners has been proved, I think there is a distinction between the conduct of Donald Nicolson, and Alexander Finlayson, and the others. These two are really the persons who committed the assault, and a distinction must be made between them and the others. The judgment of the Court is that Donald Nicolson and Alexander Finlayson be each fined £2 10s., or, failing payment, one month's imprisonment ; and the other three prisoners, Peter Macdonald, Malcolm Finlayson, and James Nicolson, be each fined 20s., or fourteen days' imprisonment.

#### LIBERATION OF THE PRISONERS.

The result was received with some surprise, though not with dissatisfaction. As the Sheriff summed up strongly against two of the prisoners it was anticipated that the full penalty in their case, at least, would be inflicted, and that on the other three prisoners the sentence would have been more severe than that pronounced. The leniency of the judgment, therefore, was satisfactory to the audience. Dean of Guild Mackenzie at once passed a cheque for the full

amount of the fines to Mr. Anderson, but the agent for the prisoners (Mr. Macdonald) intimated that it was paid under protest in order to enable him to lodge an appeal if this should afterwards be resolved upon.\*

The prisoners, who had been confined between two policemen throughout the day, were then liberated. As they emerged from the Castle, they were met by a large crowd, who greeted them with cheers and calls for a speech. They, however, were allowed to proceed to their hotel without any further demonstration.

The men and the witnesses were lodged, and provided with a liberal supply of all the creature comforts, in the Glenalbyn Hotel, where they were visited by many of those in Inverness who sympathised with their position. Next morning they left by train and steamer for Portree, their fares having been paid, and provision made for anything they might require on the journey. On their arrival the same evening in the Capital of Skye they were met by their friends and the people of Portree, who greeted them with great enthusiasm, and many of whom convoyed them the greater part of their way to the Braes.

### THE AUTUMN CAMPAIGN.

NOTHING of importance occurred for months after the trial, until the crofters appear to have allowed their sheep to take possession of Benlee, and, it is alleged, refused to take them back to their own ground.

Early in October, Lord Macdonald's Edinburgh agents

\*A cheque for the whole amount of the fines was shortly afterwards received from Mr. Norman Macleod, Bookseller, Bank Street, Edinburgh, on behalf of a few Highlanders in that city, who were quite willing to subscribe much more had it been found necessary. The whole of the other expenses of the Trial was paid by the Federation of Celtic Societies.

sent to the Braes crofters registered letters requesting them to withdraw their stock from Benlee without delay. These letters were, in the ordinary course, sent to the district post-office. Delivery of two or three was accepted, but on their contents becoming known the rest of the crofters resolved to have nothing to do with them, and refused to take delivery. A copy of one of these letters appeared at the time in the *Aberdeen Free Press*. The burden of its contents was a request to the crofters to pay up their arrears and remove their stock from Benlee, otherwise proceedings would be taken against them. The rents had not been paid, the stock was still on Benlee, and the threat by Lord Macdonald's agents was immediately followed up; the Court of Session granted notes of suspension and interdict against the crofters with regard to the grazings of Benlee. Mr. Alexander Macdonald, Messenger-at-arms, Inverness, proceeded from Inverness with the Court of Session writs in his possession. On Saturday morning, the 2nd of September, he left Portree for the Braes to serve the writs, accompanied by Lord Macdonald's ground-officer. Gedentailier is the township nearest to Portree, and on arriving there the officer of Court proceeded to serve the documents on the different crofters. He appears to have got on smoothly enough there, but word seems to have been sent to Balmeanach, the largest of the three townships, that the officer and his companions were approaching. Thereupon the women and children of Balmeanach gathered in large numbers, covering their heads with handkerchiefs to disguise themselves as well as they could. They proceeded towards Gedentailier, and met the officers on the way. There the second Battle of the Braes began. Stones and clods were flying freely, the officers thought it expedient to beat a retreat, and the writs were not served in the township of Balmeanach, or Peinachorrain.

Mr. William Mackenzie, the special correspondent of the *Aberdeen Free Press*, to whom we are indebted for the narrative of these proceedings, visited the Braes on the following Tuesday, while the sheriff-officers were still in Portree, waiting for further instructions from the authorities at Inverness. He writes on Tuesday evening :—

The serving of writs at Gedentailier was evidently managed with great rapidity, for the work was done before the people realised their position. The people of the other townships got hurried word of what was going on, and they mustered and drove the officers away before they reached Balmeanach. The whole of the people are now in a state of great anxiety, and every stranger visiting the district is watched. The children, indeed, run away weeping and crying “Tha iad a’ tighinn, tha iad a’ tighinn” (They are coming, they are coming), on the approach of any suspected person. An impression was abroad last night that the officers were again to proceed to the Braes to-day, and, accordingly, the women and children, in large numbers, gathered and formed themselves into two divisions—the one being detailed to watch and protect Peinachorrain—the farthest south of the townships), in case of the officers coming on them from Sligachan, and the other to defend Balmeanach, the middle township, in case of their coming from Portree. They occupied their respective positions for a considerable time during the day, but ultimately as the “foe” did not appear, they retired to their homes, leaving sentries on duty, to warn them of the approach of danger. These sentinels soon saw me, and gave the alarm, and in a very short time I was surrounded by a large crowd of women and children, and a few men. Each Amazon as she came up looked anything but friendly; but as I came to be known I received a cordial welcome. The old men who were present regarded the



conduct of the proprietor towards them as harsh ; but they thought that the Court of Session writs should be peaceably accepted. The Amazons, however, thought otherwise, and they expressed in no qualified terms their intention to resist.

Those who suffered in spring are looked upon as heroes and martyrs, and some feel themselves driven to such a state of desperation and exasperation that they are well nigh indifferent as to what may happen. "Whatever becomes of us," they say, "we cannot be worse off than we are." The application of force may crush them individually, but in the present frame of mind of these people, force will be no more a remedy in the Braes than in Ireland ; and I am satisfied that any attempt at evicting them, or selling them out, without some attempt at an amicable settlement, will be attended with some rough work.

The officers were re-called to Inverness on the 11th of September, having remained in the Island for nine days without again attempting to serve the writs.

The same correspondent, in one of a series of able articles, writes, under date of 11th October, regarding a rumour which was then current in well-informed circles, to the following effect:—"During the week of the Argyleshire gathering, when the gentry and nobility of the west were promoting social intercourse in Oban, an informal meeting of proprietors was there held in private, to consider the present position and future prospects of land ownership in the Highlands. The Skye question naturally formed a leading topic of discussion, and the opinion was expressed that Lord Macdonald, in the interests of his class, ought to have gone long ago to the Braes and to have endeavoured to settle the dispute between himself and the crofters ; and it was felt that so long as the question remained in its present aspect it will naturally be kept before the country, and the



popular mind will be imbibing doctrines with regard to the land which may probably end in restricting the liberties in dealing with landed estates now enjoyed by their owners." The Northern Meeting at Inverness took place on 21st and 22nd September (in the following week), and many of the gentlemen present at the Argyleshire Meeting attended the meeting in the Highland capital. Lord Macdonald was also present. Whether his lordship had any interview with those gentlemen I know not, but on Saturday, 23rd of September, he left Inverness, and on Monday, the 25th, he visited the Braes. The conference was fruitless. The tenants, who had hitherto demanded Benlee free of rent, now, in order to put an end to the present turmoil, offered to give about £40. Lord Macdonald, who receives £128 from the present tenant, agreed to accept £100. Possibly another interview might lead to a compromise between parties—the tenants offering more and the landlord agreeing to accept less. But whether there will be another interview or not is a matter that must lie with the proprietor, for in their present frame of mind the tenants are not likely to seek an interview at the stage which the case has now reached.

Now, with regard to the threatened military invasion. That it was the intention of the authorities at one time to send one or two companies of soldiers to Skye is not denied; and that these companies were to go from Fort-George. This would undoubtedly be very distasteful work to Highland soldiers, but if *ordered* they would have no alternative but to obey. That they were warned to be in readiness for "active service" in the Braes is certain; but I have good reasons for stating that military opinion at the Fort was decidedly against any such task being assigned to Highland soldiers, and that such remonstrances as could be

made consistent with military discipline were sent to the superior authorities. The reasons for this are obvious. The country is now divided into regimental districts, and Skye is one of the recruiting districts for the Highland regiments which have their depôts at Fort-George. The belief among Highland officers is that if a company of Highland soldiers were sent to Skye on such an errand there would be no more recruits from that island for at least half a century. That this opinion is a sound one will be readily admitted by any one acquainted with the Highland character.

It was ultimately resolved to make another attempt, with a larger force of police, to serve the writs on the tenants of Balmeanach and Peinachorrain, on Tuesday the 24th of October. The special correspondent of the *Inverness Courier*, who accompanied the expedition, describes the proceedings thus:—

At half-past eight this morning, in weather as pleasant as one could desire, there drove from Portree for the Braes two waggonettes containing Mr. A. Macdonald, messenger-at-arms, Inverness (who was to serve the writs); his concurrent; his guide, the ground-officer on Lord Macdonald's estates; Mr. Aitchison, superintendent of the County Police; Mr. Macdonald, inspector, Portree; and a body of nine police constables. Some newspaper correspondents followed in a third conveyance. All along the route there was manifested the most intense interest—I may say excitement. Soon after leaving Portree we met two pleasant old men—crofters at Balmeanach—who had not heard that the officers were coming, but who, when asked as to what kind of reception they might expect, shook their heads, and indicated that their reception would be somewhat warm, but decidedly unpleasant. One of them told us that the officers had spoken to him as he came along, he having been pointed out as one

of the crofters in question by Mr. Beaton. They asked him to accept the "paper," but he would have nothing to do with it; he did not understand that it was anything else than a paper the reception of which would end in his being reduced to misery and want. Then, as we proceeded, we met people who told us that a reception was quite prepared at the Braes for the officers, and for the police. Here, and at several other points, information which we received in Portree last night was confirmed, information, namely, that the crofters had been advised that officers were approaching them, had been counselled to receive the papers, and that they had been on the watch all night. We passed on and on through a country which plainly had at one time been thickly peopled, but which is now a scene solitary to an extent that is painful to contemplate. At a little township near the Braes, women stopped their work at the peats to look at the passing carriages. A little further on the officers and policemen left their waggonettes, and walked to Gedintailier—a distance of over two miles—on foot. We adopted the same course.

The high green hill which, at the very entrance to the township of Gedintailier, rises right up from the roadside, was soon before us—a little over a mile ahead. We could see that there were groups of people on the height, and a couple of crofters belonging to a place immediately on the Portree side of Gedintailier, and who joined us here—going forward to see the fun—said that sixty people had been on the watch there ever since the dawn of day, and that they carried flags with which they were to wave to the whole community signals of approaching strangers. As soon as we approached the borders of Gedintailier, it was plainly seen that the officers, who were now a third of a mile ahead of us, were engaged in a task of a most delicate and

difficult nature. A band of young men, and stout lads, and girls, occupied a height, from which, with stones, they could command the passage by the road underneath. Here we learned that the people whose writs were served successfully on the 2nd September last had driven their cattle off, thinking that the officers had come to seize them. Further on, we could see that the officers and the policemen were marching along a road, on each side of which were gathered here and there small knots of men, women, and children. As the officers and police force advanced, these knots of people retreated before them—all, however, to concentrate at a point just within the march that separates the township of Gedintailier from the township of Balmeanach. The people were angry and excited. Some carried sticks. Others doubtless were quite prepared to use the stones that lay everywhere about. Many wore an aspect of determination which was ominous in the extreme. It was clear that a whole country-side was up in arms against the messenger-at-arms, the police, and the writs. One young fellow, in answer to a question by myself, spoke in a tone and with a look which were the opposite of encouraging; and only changed his behaviour when he heard that I had come from a newspaper. This much must be said of everyone else; they were kind and courteous to those who were not connected with the officials who came to visit them; they seem well disposed too so long as you did not propose to take Benlee from them; in appearance and demeanour altogether there was nothing when they were away from the officers, but what is creditable. They, however, hate the writs, and all connected with them; and they entertain a bitter aversion to the very word "police"—an aversion deeply rooted in the minds of the youngest—because presumably of the recollection of the visit which was made to

them in April last. But extreme excitement is perfectly compatible with this courtesy towards those who they know are not connected with the writs. If I were asked to describe the Braes to-day, I should say the whole community resembled a barrel of gunpowder that only required the lighted match to produce an explosion.

The officers and the police were stopped at the entrance to the township of Balmeanach—quite near the first house in the township—by a body of men, women, and children, variously estimated at from 140 to 160 individuals.

The scene, while officers and crowd were face to face with each other, was one both striking and picturesque. While officers and people discussed in Gaelic we wandered around to see what was to be seen, and hear what of English was to be heard. There they were, a great crowd engaged in loud and angry talk, varied now and again by strange cries and shouts from the women; and the very gathering and the noise and the excitement lent additional interest to the more distant scenes, which were already striking in solitude and grandeur. The girls, who were attending to the cattle on the green hill-sides, gathered in little knots to hear what was going on. The children who played on the roadside, or watched on the green turf infants of tender years, whose mothers were confronting the officers, seemed to have a perfect idea of what was taking place. At the beach, far down below the roadway, there lay a little boat in which three fishermen were engaged in shaking out of the nets some herrings which the night before they had got in Loch-Eynart. They, too, had to be apprised of what was going on. Occasionally one of the crew would land, ascend the steep braise, and look on the crowd. But while he was in the boat a knot of young women far up above the beach, would report the movements.



The interview between the people and the officers continued near an hour and a-half. The conversation was carried on in Gaelic. It would appear that every advice given to the crofters to receive the writs was lost upon them ; they apparently did not know what the papers were, what they meant, or what the receiving of them would result in beyond the taking from them of Benlee. It is said they had been advised to receive the writs by two ministers and others ; and in the afternoon we were shown the following telegram which had been handed in at Inverness at 4.52 P.M., Monday, and which had been received in Portree at 5 P.M. :—

*“ From Dean of Guild Mackenzie, Inverness.*

*“ To Mr. Neil Buchanan, or any of the Braes Crofters, near Portree.*

“ Sheriff-officers, with body of County Police, left to-day with writs for Braes crofters. Be wise. Receive summonses peaceably. Trust to support of public opinion afterwards.”

But the unfortunate crofters declined the counsel thus given. They regard Benlee as belonging to their holdings, and Benlee, and nothing but Benlee they would have.

There were heads of families in the crowd, and these were pointed out to the messenger-at-arms by the ground-officer. The messenger-at-arms then endeavoured to effect the service of the writs, but his efforts were of no avail. The officer tried them over and over again, but in vain. At length, he said he would go to the houses, and lodge the papers there. He endeavoured to go, but women rushed to intercept him, carrying stones and sticks, and all indi-

cating that the proposed action on the part of the officers would not be allowed. At this stage, Beaton, the ground-officer, declined to go further to point out the houses, the enterprise threatening to be accompanied with danger. Shortly thereafter Mr. Macdonald said, "Very well, good-bye, ladies and gentlemen". Some women replied, "Good morning and a half to you, sir". The officers and the police force—the "dismal brigade," as they were once happily termed—turned their backs on the Braes, marched to the spot where the waggonettes were awaiting them, and returned to Portree, bearing with them the undelivered writs of the Court of Session.

During the interview with the officers, some of the women were weeping, and even at a distance from the crowd could be heard exclamations in Gaelic about the number of helpless widows and orphans that were in the Braes. Some called out that the curses of the orphans and widows would follow all these things. One woman said she would not like to see any one suffer greatly, but if those over them continued these actions much longer she did not know what she might wish them. Once a man was heard to say that the officers seemed to have come in a friendly way; but he was replied to with a chorus of voices that they came in no friendly way, that they were come to ruin poor people, and that they would not be allowed to go further. The police came in for a considerable share of the angry expressions of the women. One person reminded the police that there were people there who yet suffered from wounds they received in April. Actions and expressions were frequently greeted with cries on the part of the crowd, which were very far from encouraging to the officers. Occasionally, however, there were signs of good humour; but these were few, and disappeared as soon as the officers tried to go

to the dwelling-houses. Altogether, as will have been clearly seen, the atmosphere was troubled in the extreme. A single injudicious act on the part of the messenger or police would unquestionably have produced an explosion of feeling which would have compelled the legal force to retreat with greater haste and with less dignity than that with which they did actually retire. At one point a row seemed imminent, but it was prevented by the officers and the police exercising prudence as the better virtue.

Judging from the appearance and the demeanour of the people to-day, my own opinion is that, if these writs are to be served by force, they must be served by men protected by the military. This, too, is the opinion of many people in Portree. The truth is, these frequent visits of officers and men in dribbets to serve papers, which the crofters associate with impending misery, and possibly, eviction, are irritating and distressing the people. As it is, the people have become exasperated; and it will be absolutely cruel, considering their ignorance of legal forms, their extreme poverty, and their attachment to the soil, to serve the writs by any other force than one which, by previously overawing them, will preclude the possibility of inflicting personal wounds on either man or woman. The appearance of the military may possibly overawe them, if they be sent in sufficient force; but a police force will only still more exasperate them, and lead to a repetition of the painful scenes of April last.

The tone and spirit of this communication was altogether different to anything that had hitherto appeared in the *Courier*. It began to dawn upon the landlords that there must be something in the complaints of the people, after all, when this newspaper published such an account of the Braes and its unfortunate inhabitants. The change in its views produced a sensation, and pressure was immediately

brought to bear upon Lord Macdonald by some of the Highland lairds to bring about a settlement with his people, if at all possible; but hitherto, so long as he expected a military force to crush them, without avail.

The urgent appeals made by the County authorities to the Home Office for a military force completely failed. It is well known in certain circles that Sir William Harcourt would not even listen to the proposal, and that he openly ridiculed the idea of sending Her Majesty's soldiers to settle a paltry dispute between a landlord and a few of his crofters, which, by the exercise of a little sound judgment and ordinary prudence, could be arranged by sensible men in a few minutes. In consequence of this attitude on the part of the Crown authorities further pressure was brought to bear upon Lord Macdonald to come to terms with the Braes crofters, and it is well known in well-informed circles that under this pressure he finally agreed to enter into negotiation, in the event of proposals to that effect emanating from the crofters themselves or from any of their friends. After a good deal of private correspondence in influential circles on both sides, negotiations were arranged, as we shall see hereafter, which ultimately ended in a settlement satisfactory in the circumstances to all concerned.

The special correspondence in the *Courier* had an effect also in other quarters than that of the landowners. Immediately on its perusal a patriotic Highland gentleman of means, who resides in the Channel Islands during the winter months, telegraphed on the 28th of October, as follows, to the writer of these pages:—

*“To Alexander Mackenzie, Esq., Dean of Guild of Inverness,  
from Malcolm Mackenzie, Vue du Lac, Guernsey.*

“Tender by telegraph to Lord Macdonald's agent all arrears of rent

due by Braes crofters, and to stay proceedings. I write by post and send securities for one thousand pounds on Monday."

These instructions were carried out, and the following reply was received in due course :—

5 Thistle Street, Edinburgh, 30th Oct., 1882.

Sir,—We have received your telegram of to-day stating that you are authorised by a Mr. Malcolm Mackenzie, Guernsey, to tender payment of the last two years' arrears of rent due to Lord Macdonald by the Braes crofters, on condition that all proceedings against them are stopped, and that you will be prepared to deposit securities for one thousand pounds to-morrow.

Although we know nothing of the gentleman you mention, we will communicate your telegram to Lord Macdonald. At the same time, we must observe, that you seem to be labouring under a misapprehension as to the matter at issue between his lordship and the crofters, the proceedings against whom were raised for the purpose of preventing trespass, and not for recovering arrears of rent.—We are, &c.,

(Signed) JOHN C. BRODIE & SONS.

To Dean of Guild Mackenzie, *Celtic Magazine* Office, Inverness.

To the above letter the writer replied as follows :—

*Celtic Magazine* Office, Inverness, Nov. 1, 1882.

Sirs,—I am in receipt of your favour of Monday acknowledging my telegram on behalf of Malcolm Mackenzie, Esq., Guernsey, offering to pay arrears of Braes crofters on terms stated therein.

I was fully aware of the *nature* of the proceedings against the crofters, though possibly Mr. Mackenzie was not, and I simply carried out my instructions. I think, however, that, if Lord Macdonald desires to settle amicably with the people, this proposal, if it does nothing else, will give him an opportunity of doing so without any sacrifice of his position beyond showing a willingness to discuss the matter with a view to settle it in a way that will extricate all parties from a difficult position.

Mr. Mackenzie has now, through me, deposited securities amounting to over £1000 in bank here, and I shall be glad to hear from you when you shall have heard from his lordship.—I am, Sirs, your obedient servant,

A. MACKENZIE.

Messrs. John C. Brodie & Sons, W.S.



Lord Macdonald's agents having published their letter, as above, in the *Inverness Courier* of 2nd November, Dean of Guild Mackenzie wrote them another letter in the course of which he said :—

Referring to the second paragraph of my letter of yesterday, permit me to express my opinion that a favourable opportunity has now arrived to compromise the question in dispute advantageously to both parties, and if I can in any way aid in that object, nothing will give me greater satisfaction. I have had no communication either direct or indirect with the Braes people since the recent trial, except the telegram which has appeared in the papers ; but if a desire is expressed for an amicable arrangement, I shall be glad to visit them and do what I can to bring such about. I believe if a proposal were made to appoint an independent valuator connected with the West, and one in whom the people might fairly place confidence as to his knowledge of the country and the climate, the question might be settled in a few days. This valuator should value the crofts and Benlee together, and name one sum for the whole. Though I have no authority for making this proposal, I believe it could be carried out to the satisfaction of all concerned, and it would extricate the authorities and Lord Macdonald from a most unenviable position.

To these letters no reply was received.

Mr. Malcolm Mackenzie followed up his telegram of 28th October with a letter, of the same date, at once published in almost all the newspapers in Scotland, in the course of which he said :—

On reading in the *Inverness Courier* an account of the proceedings of Tuesday last against the Braes crofters, I thought that something might be done to take everybody out of a difficulty, and wired you the following message :—"Tender by telegram to Lord Macdonald's agent all arrears of rent due by Braes crofters, and to stay proceedings. I write by post, and send securities for one thousand pounds on Monday."

I trust that Lord Macdonald will be advised to accept payment of arrears, and to leave the people of the Braes in peace until the Government of the country can overtake measures to judge between him and them. It will be a heavy responsibility and a disgrace to call soldiers to Skye at the present time. Her Majesty has more important work to

do with her soldiers than to place them at the service of the Court of Session in vindication of an unconstitutional law which is not based on principles of justice, and which has, by the progress of events and the evolution of time, become inoperative. The Court of Session looks for precedents. Where are these precedents for the reign of Queen Victoria?

Our dual system is no longer possible. Lord Macdonald does not know what to do. Nobody knows what to do. There is an absence of law and justice. In Scotland the administrator of justice is the robber who deprives the people of their natural and indefeasible right to the soil and of the labour which they have incorporated with it. Is that not a terrible contingency for any country to be in? It is peculiarly disgraceful that it should be so in respect of the Highland race, who successfully defended their country, their lands, and liberties, against Romans and Normans. What have we come to? Are they going to send for the Highland Brigade from Egypt to slaughter the people of Skye?

We call for Mr. Gladstone. What can poor Mr. Gladstone do, with time against him, society in a state of revolt, a demoralised House of Commons, a recalcitrant House of Lords, and the Court of Session at its wit's ends? Let us pray that he may be able to act as a *governor* on this rickety steam-engine of society which, under high pressure, and by reason of great friction, is in danger of tearing itself to pieces. In the meantime, and until the machine is put in some sort of order, by Rules of Procedure and alteration of the law, it is every man's duty to keep her Majesty's peace and prevent bloodshed; and as you appear to me, sir, to be doing yours, like a good Seaforth Highlander, or Ross-shire Buff, allow me to subscribe myself, very faithfully and loyally yours.

The following letters explain themselves:—

TO THE EDITOR OF THE INVERNESS COURIER.

*Celtic Magazine* Office, 2 Ness Bank, Inverness, 8th November, 1882.

Sir,—I have just received the enclosed letter from Mr. Malcolm Mackenzie, Guernsey. Please publish it in the *Courier*, as you have already published the reply to my telegram from Lord Macdonald's agents.

Permit me, at the same time, to state that the sum of £1000, in actual cash, has now been placed by Mr. Mackenzie at my disposal in the Caledonian Bank, and, in the event of his offer being entertained by

Lord Macdonald, that I shall be ready at any moment to implement Mr. Mackenzie's offer.—I am, &c.,

ALEXANDER MACKENZIE.

Guernsey, 4th November, 1882.

Alexander Mackenzie, Esq., Dean of Guild, Inverness.

Dear Sir,—I am in receipt of your letter of the 1st, enclosing the reply of Lord Macdonald's solicitors to your telegram tendering them payment of two years' rent due by the Braes crofters.

From Lord Macdonald's dignified position, he might be thought entitled to ask me for an introduction before accepting any assistance on behalf of his tenants; but acting as I was, on the spur of the moment, to prevent bloodshed, and possibly to avert an act of civil war, I did not think that in these hard-money days his solicitors would raise any objections on the ground of my being unknown to them, especially as I made the Dean of Guild of Inverness the medium of my communication.

As the days of chivalry are gone, and as clan ties and feelings of patriotism and humanity are no longer of binding obligation, I could not imagine that a firm of solicitors would stand on so much ceremony.

Whatever misapprehension Lord Macdonald's advisers are labouring under, I can assure them that I am labouring under none as to the real issues between him and his crofters. It would, doubtless, suit them to have the case tried on a false issue of trespass before a Court which must be bound by former decisions and prevailing canons as to the rights of Highland landlords. The plea of the poor people is that Lord Macdonald is the trespasser, in depriving them of their mountain grazings, without consent or compensation, and thereby reducing them to abject poverty. What can they do? It would raise the whole question of constitutional right, and, as I have said, the Court is bound by former decisions that the landlord has the right to resume possession, and to evict and *banish* the peasantry after having first reduced them to the last nettle of subsistence. A sentence of banishment used to be regarded as a punishment only next to death, but in the phraseology of landlords it is now an "improvement".

In the days of "bloody" George of our own ilk, the Court of Session knew better how to apply the "boot" and the thumb-screw than constitutional law. Even later, such ruffians as old Braxfield recognised no right in the people, and according to their dog Latin, they found that the landlord was the only person who had a *persona standi*. It might, indeed, be an interesting question for more enlightened and better men

to discuss, whether the Crown of Scotland conferred on the chieftains by their charters the right of wholesale clearances and forcible banishment of the people from their native country ; and when their military service was commuted into rent charges, if it extended to the landlord the right to make it so oppressive that they could not live without appealing to the public bounty for charity. But I fear it is now too late to expect the High Court of Scotland to remedy the evil, and that we must look to some other Court for redress.

It is in the hope that such a Court of equity may be established for Scotland as regards land and the well-being of the people, that I ventured to offer my assistance, and I thought that Lord Macdonald and his advisers would be glad to make it the means of getting out of a difficulty, and quashing a case that has become a public scandal, instead of standing on ceremony.—I am, sir, faithfully yours,

(Signed) MAL. MACKENZIE.

No further reply was received from Lord Macdonald or his agents to Mr. Mackenzie's munificent offer, the accepting of it being understood by them as equivalent to giving up the grazings in question to the people, without any rent whatever, the only proceedings then current against them being the Note of Suspension and Interdict to remove and keep their stock off Benlee. They quite understood that, if these proceedings were withdrawn, as conditioned in Mr. Mackenzie's offer, the Braes Crofters would have the grazings in dispute on their own terms, until some settlement was arrived at between them and Lord Macdonald ; and rather than agree to this, his Lordship, if the crown authorities had been pliant enough, would have chosen to see them slaughtered by a military force. Better counsels have fortunately prevailed, and his Lordship was saved by others from making his name for ever infamous among the Highlanders, especially among his own clansmen, and this although it was only through the strong arms and trusty blades of their forbears that his ancestors were able to leave him an inch of his vast estates !

While strong efforts were being made in private to induce his Lordship to yield, the following letter, refusing the expected military force, was received from the Lord Advocate by the Sheriff of the County :—

Whitehall, 3rd November, 1882.

Sir,—I received on the 28th ulto. the Report of the Procurator-Fiscal at Portree, relative to the occurrences which took place at Braes on the 24th, and the precognitions referred to in the Report reached me on the 30th. These documents have been carefully considered, along with the previous papers, and I have now to communicate to you the view entertained by the Government on the subject to which they relate.

It is clear that Lord Macdonald is entitled to have adequate protection for the Messengers-at-Arms whom he may employ for the purpose of serving writs upon the crofters at Braes, and the question to be determined is, by whom should that protecting force be provided, and should it consist of police or soldiers?

The duty of preserving the peace and executing the law within the County rests upon the County Authorities, who are by statute authorised to provide and maintain a police force for these purposes. The number of the force must necessarily depend upon the condition of the county, and the nature of the services which require to be performed in it. Recourse should not be had to military aid unless in cases of sudden riot or extraordinary emergency, to deal adequately with which police cannot be obtained, and soldiers should not be employed upon police duty which is likely to be of a continuing character. From the various reports which have been received, it appears that one or more places in the Island of Skye are in a disturbed condition, though actual riot or violence is not anticipated unless on the occasion of the service of writs, or the apprehension of offenders, and it further appears, that any force employed in protecting the officers performing such duties would probably be required not once only, but in connection with services falling to be made throughout the successive stages of the process of Suspension and Interdict, and of the Petition for Breach of Interdict, by which it would, in all likelihood, be followed. It further seems to be the view of the Authorities in Skye that the force would require to remain in the Island for a considerable time. These considerations have led the Government to the conclusion that they ought not to sanction the employment of a military force under existing circumstances, but that the County Authorities should provide or obtain the services of such a force of police



as they may consider necessary for preserving the peace and executing the law within the county. It is not for the Government to prescribe or even to suggest the particular mode in which the County Authorities should fulfil this duty, whether by adding to their own police force, or by temporarily obtaining the services of police from other Counties or Burghs, but I am authorised by Sir William Harcourt to say, that if they should resolve to make an addition to the number of their own police, he will be ready to grant his consent, in terms of section 5 of the Police (Scotland) Act of 1857, to whatever addition they may consider requisite.—I am, Sir, Your obedient Servant,

(Signed) J. B. BALFOUR.

To William Ivory, Esq., Sheriff of Inverness.

This letter was a bitter pill for the County Authorities, who naturally desired to escape the serious responsibility of serving the writs in Skye by the small police force at their disposal. The Police Committee held a meeting on the 13th of November to consider the document, and to decide what was necessary to be done in the altered circumstances. After serious deliberation Mackintosh of Mackintosh moved :

“That while protesting against the assumption that under existing circumstances the county was bound, without the special aid asked for from the Government, to execute the Supreme Court’s warrants within the disturbed districts ; and while disclaiming all responsibility for any consequences which may result from the action which is now forced upon them, the Committee agree to make a strenuous effort to execute the Court’s warrants, and with that view they resolve that the police authorities of Scotland be immediately communicated with, asking them to furnish the largest number of constables they can possibly spare on a given date, and to place this force at the disposal of the executive of the county;” which motion was seconded by Mr. Davidson of Cantray, and unanimously agreed to.

Lord Lovat then moved “That the Committee recommend to the Commissioners of Supply to increase the present force by 50 constables;” which motion was seconded by Mr. Davidson, and unanimously agreed to.

It was also agreed to recommend that a meeting of Commissioners be held on Monday following to consider and dispose of this recommendation.

The meeting of Commissioners of Supply was duly held on the following Monday, when the subjoined interesting Report, dated Edinburgh, 18th November, was submitted by Sheriff Ivory :—

1. The second deforcement at the Braes took place on 2nd September, 1882. A full account of that and the previous deforcement is given in my report to the Home Secretary, and appending which is sent herewith.

2. On 6th September an order was issued by Crown Counsel, after consultation with the Lord Advocate, to serve on upwards of fifty crofters at Braes notes of suspension and interdict prohibiting them from trespassing on Benlee, which was then, and had been for seventeen years previous, occupied by another tenant, at a rent of £130.

3. That order was given to the Procurator-Fiscal of the Skye district, who was directed to judge of the amount of the police force that would be required, and to ask the police authorities to furnish it, the particular mode in which the writs were to be served being distinctly specified in Crown Counsel's order.

4. The above order was on the 7th September communicated by the Procurator-Fiscal (Skye District) to the Clerk of the Police Committee, the former intimating at the same time that he and Sheriff Spiers considered 100 police necessary, and that they should be supported by troops. The order was thereafter communicated to me as Chairman of the Police Committee, whereupon I at once put myself in communication with the Lord Advocate, and asked for instructions.

5. The Lord Advocate thereafter requested the Procurator-Fiscal of Inverness-shire and myself to go to Edinburgh, and consult with him there. We went, and on the 16th September, after a long and anxious consultation (in the course of which I strongly advocated an expedition with a Government steamer and marines), it was finally resolved that, as the calling in of strange police had caused a serious riot on a previous occasion, and would be likely on the next occasion to cause much more disturbance and bloodshed than a military force, it was the best course to prevent a serious riot and perhaps loss of life, to call in the aid of the military, and I was requested by the Lord Advocate to make the necessary requisition to the military authorities.

6. On 21st September I intimated to the Home Secretary that, after consultation with the Lord Advocate, I intended to make a requisition for troops, and sent him at the same time, through the Lord Advocate,

a full report in regard to the disturbed state of Skye, and the previous deforcements and assault on 50 Glasgow police and myself at Braes.

7. The requisition for troops was made by me on 23rd September, and on my informing the Lord Advocate of the fact, his lordship wrote me on 25th September that he did not see that the county authorities had then any alternative but to request military aid.

8. On 30th September the Home Secretary wrote me deprecating the use of military, unless it was absolutely necessary, and suggesting that if the expedition had not started I should again consult with the Lord Advocate on the subject.

9. On 30th September, and again on 1st October, I pressed on the Lord Advocate my decided opinion that (failing the Government furnishes a steamer and marines) it was absolutely necessary to make use of the military.

10. Shortly after this Lord Macdonald visited the Braes, and in consequence the Lord Advocate directed me to suspend the requisition for the military; and on 12th October, I intimated this order to Colonel Preston.

11. On 17th October, the Lord Advocate wrote me that the Braes arrangement was at an end; that the position of matters had altered since the requisition for the military was made; and that, in his lordship's opinion, a further attempt should be made to ascertain, by the test of experience, whether a military force was absolutely essential.

12. That further attempt was made on 23rd October and failed. A full report of the expedition was afterwards communicated to the Lord Advocate.

13. Considerable misapprehension exists in regard to this expedition. The Lord Advocate was of opinion that, from what passed during the negotiations between Lord Macdonald and his crofters, the latter had indicated a more peaceable frame of mind, and that there was no ground for assuming that they would forcibly resist a well-conducted service. The Police Sub-committee and I entertained doubts as to the propriety of sending such a small force of police to the Braes, as in the present excited state of the people they might suffer severe injury. These doubts were intimated to the Lord Advocate and Home Secretary, but at the same time, in deference to the views of the former, the expedition was carried out. In giving their consent to this expedition, the Sub-committee stated that they 'were decidedly of opinion that if the messenger should be deforced on this occasion it will be absolutely necessary that a military or naval force should immediately thereafter be sent with the messenger to insure service and the vindication of the law. The com-

mittee were strongly of opinion that a gun-boat and naval force would be preferable, and that the boat should remain for some time in the district.

Sheriff Ivory here relates, in paragraphs 14, 15, and 16, the resolution of the Police Committee to apply to counties and burghs in Scotland for a special police force, and to permanently increase the force of the county by 50 men (see excerpt from their minute already given). He proceeds—

17. These resolutions on the part of the Police Committee are in my opinion highly creditable to them, and I sincerely trust that they will be unanimously approved of and adopted by the Commissioners of Supply. For, while the latter have no doubt great reason to complain of the great delay that has already occurred in consequence of the manner in which the Government has acted, and of the delay that in all probability must still take place, if the Government adhere to their resolution to refuse military aid, and while I think the Commissioners ought to protest against the present attempt of the Government to throw on the county authorities the whole responsibility of serving writs, apprehending offenders, executing the law, and preserving the peace of the county, without naval or military aid, in the present disturbed state of Skye, and to disclaim all responsibility for the consequences, should serious bloodshed or loss of life ensue—I am of opinion that the conduct of the Government in the matter renders it all the more necessary for the county authorities to do their utmost in the meantime to preserve the peace, and vindicate the authority of the law in Skye.

18. For my own part I regret exceedingly the delay that has already occurred, and that will in all probability still occur, before the law is duly vindicated in Skye. Such delay will be most prejudicial, in my opinion, to the best interests of the island. Had I foreseen the course which matters have unfortunately taken, I should at once have recommended the county authorities—when application was made to them for a sufficient force to serve the writs—to do then what they propose to do now—viz., to apply to Glasgow and other police authorities for a larger force of police to ensure the due service of the writs. But this course appeared to me objectionable in many respects. In particular, nothing gave such great offence to the crofters and their friends as the sending on the last occasion a large force of strange police to Skye, and I am credibly informed, and believe that if such a force was sent again, a serious riot, and probably bloodshed would ensue. Further, it appeared to me far from a judicious course to apply to Glasgow and other burgh and county authorities for police, thereby necessitating innumer-

able discussions regarding the rights of crofters before the Police Committees of Scotland, while at the same time it was very doubtful whether these authorities could or would supply the necessary force. On the other hand, I was assured by many persons who were much interested in Skye, and who knew the people well, that if a force was sent by Government—whether naval or marine—the people would see that the Government were determined to vindicate the law in Skye—that in that case in all probability no resistance would be offered, and the writs would not only be served in peace and quietness, but in all likelihood the people would in future refrain from trespassing on ground to which they had no right or committing breaches of interdict, or otherwise setting the law at defiance. On these grounds when I failed to get the use of a Government steamer and marines, I willingly accepted the other alternative of making a requisition for military aid. It must be kept in view, however, that the suggestion for military aid came neither from the county authorities nor from myself. It was originally insisted on by the Procurator-Fiscal of Skye (acting as the hand of the Lord Advocate in the matter) as necessary to enable him to fulfil the order of the Crown Counsel to serve the writs at Braes ; it was afterwards adopted by the Lord Advocate, after long and anxious consultation with the parties on whose judgment his lordship thought proper to rely—as the best course to be followed in all the circumstances ; and while the formal requisition was made—as it could only formally be made by me as Sheriff of the county—in point of fact the requisition for military aid, which has now after two months' delay been refused by her Majesty's Government, was truly made at the request, and for the purpose of carrying out the views of the Lord Advocate, who at the time represented her Majesty's Government in Scotland.

(Signed) W. IVORY.

The following excerpt from the Minutes of the Police Committee Meeting, held on the 18th of September was also read :—

The Committee, having reference to the Procurator-Fiscal's letter, as to the nature and extent of the force necessary to be employed, and to the reports made to them at the time of the previous disturbances at the Braes, were of opinion that no force of police at their disposal will be adequate to the duty the county authorities are now called upon to perform, and that with the view not only of securing the service of the writs, and the apprehension of the accused parties, but of duly impressing



the people of Skye with the resolution of the authorities to maintain the law, a military or naval force should accompany the authorities in their endeavour to enforce the law, to be employed as a protection and aid to the civil officers, in the event of their being overpowered; and the Sheriff was requested to make requisition to that effect in the proper quarter.

It was agreed that the county police force should be placed at the Sheriff's disposal, but they do not think it advisable again to apply for police from Glasgow. Especially, seeing that a strong feeling of irritation was excited in Skye against them on the former occasion, the moral effect would be less than were the military employed, and also because difficulties may be anticipated with the Glasgow Town Council in procuring the necessary force.

After considerable discussion and some opposition, it was resolved to increase the police force of the county from 44 to 94 men; at an estimated cost of over £3000 per annum. It was also agreed

To make a strenuous effort to execute the Court's warrants, and with that view they resolve that the police authorities of Scotland be immediately communicated with, asking them to furnish the largest number of constables they can possibly spare on a given date, and to place this force at the disposal of the executive of the county.

The police authorities of Scotland had been applied to, and the response was of so discouraging a character that the proposed police force has not yet been sent to Skye, and it is most unlikely that it ever shall be. A few counties agreed to send small detachments, which resolution some of them afterwards rescinded. All the burghs point blank refused to send any. This indicated an ominous state of adverse feeling throughout the country regarding the proposed action of the Inverness County Authorities, and they became paralyzed in consequence. The Commissioners of Police for the Burgh of Inverness, on the motion of the present writer, refused the application of the County Authorities (on the evening of the day on which the Commissioners of Supply resolved to ask for it), by a majority of 14 to 5, the

minority, it has been pointed out, consisting of three factors—Culloden's, Sir Alexander Mathieson's, and Flichity's, with Lord Lovat's Law Agent, and the local architect of Mackintosh and Sir John Ramsden:

What was to be done next? Neither military nor police could be had to serve Lord Macdonald's writs; the county authorities were virtually powerless, and various efforts were made to secure a settlement. They had in fact to fall back on the friends of the crofters, one of whom, a gentleman in Skye, was communicated with by his Lordship's agents, urging him to use his good offices to get the crofters to let his Lordship drop easy, by getting proposals of settlement to emanate from them. The result was a visit by the factor, Mr. Alexander Macdonald, to the Braes, on the 27th of November last; a long conference with the tenants, and a final settlement, the people agreeing to pay a rent of £74 15s. a year for the now celebrated Benlee, for which the late tenant, Mr. John Mackay, had been paying £128 per annum, and he, who was joint-petitioner with Lord Macdonald, in the Note of Suspension and Interdict, in the Court of Session, having given his consent, the case was withdrawn in the month of December, and peace, which, with a little prudence, and the exercise of the smallest modicum of common-sense, need never to have been broken, now reigns supreme in the Braes.

It should be mentioned that the Braes crofters told their friends from the beginning that, although they considered themselves entitled to Benlee without any rent, still they were willing to pay a fair sum for it, if Lord Macdonald or his factor would only listen to their grievances or condescend to discuss with them, with the view of arriving at any reasonable compromise, such as that which has now been agreed upon, apparently to the satisfaction of all concerned

## THE GLENDALÉ CROFTERS AND THE COURT OF SESSION.

IT appears that the Glendale crofters have permitted their stock to remain on the farm of Waterstein, notwithstanding an interdict procured against them, in absence, in the Court of Session, and they are now further charged with an assault on one of the shepherds. Unlike the Braes tenants, they were apparently not only quite willing to receive any number of writs, but they were at the same time most courteous to the officers of the law, who have had occasion to visit them repeatedly in the performance of their official duties. On the last occasion they, with the greatest consideration, ferried Mr. MacTavish, the sheriff officer, across the loch from one district to another with the unserved portion of the writs, for those on the opposite side, in his possession.

The following report of what took place in the Court of Session will explain how the matter stood with them in January—

PETITION AND COMPLAINT.—MACLEOD'S TRUSTEES *v.* MAC-  
KINNON AND OTHERS,—GLENDALÉ CROFTERS.

This petition and complaint was presented by the Trustees of the late Sir John Macpherson MacLeod, of Duirinish, K.C.S.I., and the petitioners complained of various breaches of interdict against five of the crofters on the estate of Duirinish and Glendale, in the island of Skye, which estate is in the hands of the petitioners as trustees. The case was before the Court on the 11th of January, when

Mr. Murray, for the petitioners, appeared and said—In this case no answers have been lodged, and I have to ask your lordships to pronounce an order ordaining the respon-

dents to appear at the bar. In the special circumstances of this case I shall ask your lordships to allow us to send the order by registered letter.

The Lord-President—What is the order you ask for?

Mr. Murray—The order I ask for is to ordain the respondents to appear at the bar.

Lord Mure—How many respondents are there?

Mr. Murray—There are five of them.

The Lord-President—Have you any precedent for that mode of sending an order, Mr. Murray?

Mr. Murray—No, my lord : there is no authority. I think the matter is entirely in your lordships' hands. The matter is not regulated by any express enactment. The Act of Sederunt that deals with it is 28, which simply says that the procedure shall be, so far as possible, the same as the procedure in a petition and complaint against the freeholders. Your lordships see that this is really simply intimating an order of Court, and one great reason for this, without directing your attention to any other special circumstances, is the very large expense that is incurred by service in such a remote part. The service in this case practically costs £40. Now, there have already been three services. There was first the original service of interdict; and then there was the service of interim interdict; and then, lastly, there was the service of the petition and complaint.

The Lord-President—Is there any messenger-at-arms?

Mr. Murray—There is nobody nearer than Glasgow or Inverness.

Lord Mure—What do you say the expense was?

Mr. Murray—£40 on each occasion. £30 of fee, and £10 of expenses.

The Lord-President—Is there a Sheriff Court officer in Skye?

Lord Mure—There is a Sheriff-Substitute at Skye if there is not a sheriff officer.

After a consultation the Lord-President stated that their lordships would dispose of the matter in the course of the day.

When the case again came up in the afternoon, the Lord-President said their lordships did not see their way to grant the request to serve the order by registered letter, and they would just have to serve it in the ordinary way. They would make an order for the respondents to appear personally at the bar, but he thought probably they had better make it so many days after service. He supposed it was a matter of no consequence whether they authorised it to be done by a sheriff officer rather than a messenger-at-arms.

Mr. Murray said it would be better if they had the option of employing either the one or the other. He would not like to be tied down to a sheriff officer.

The Court, therefore, in respect of no answer and no appearance for the respondents, made an order for them to appear personally at the bar on the 1st day of February next, provided this order was served on them ten days before that date, and authorised either a sheriff officer or messenger-at-arms to serve the order.

The Sheriff-Officer, in due course, proceeded to Skye, to serve the Order of the Court, but on arriving in Glendale he was met by a large crowd of men, women, and children, who refused to receive the writs.

The officer is alleged to have been roughly handled by the crowd on his way back, and next day a body of about 2000 people followed him all the way to Dunvegan, a distance of 10 miles, to compel him to leave the district. Learning that he had already left for Portree, the people soon dispersed and returned peaceably to their homes.



## GUNBOAT IN GLENDALE WITH GOVERNMENT OFFICIAL.

The county authorities knew that it was utterly useless to attempt the apprehension of any of those charged with Breach of Interdict by the Police force at their disposal, and they applied to Government for a gunboat or a military force. Several meetings were held and resolutions passed, by associations throughout the country, deprecating the use of the military until all other means were exhausted, as there was still hope that Sir John MacLeod's trustees would reconsider the position they had taken up. The result was that at 9 P.M. on Monday, 5th of February, a gun-boat, the *Jackal*, left her moorings at Rothesay, and arrived, after a rough passage and consequent delay, in the North of Skye. She had neither military nor police force on board. On Friday the 9th, she anchored in Poltiel bay, opposite Glendale, and sent an officer ashore, who was met by some of the crofters, and courteously received. It was arranged that the people should meet Mr. Malcolm MacNeill of the Board of Supervision, and Captain Macdonald of Waternish, in the Free Church, at two o'clock the same afternoon. The horns were sounded, and between 600 and 700 persons attended the meeting, when the two gentlemen named were introduced by the Rev. John MacRae. Captain Macdonald addressed the people in Gaelic, and explained to them the object of Mr. MacNeill's visit, which was of a peaceable nature, after which the latter read the following statement to the people, translated into Gaelic, by the Rev. Mr. MacRae :—

Inhabitants of Glendale, —I have come here to speak to you one last word on behalf of the Government. It may be that you are not aware how serious is the offence which you have committed in deforcing and maltreating an officer carrying out the orders of the Supreme Court. If

so, it is my duty to tell you that it is an offence which will neither be forgotten nor forgiven till four offenders—viz., John Macpherson, Malcolm Matheson, Donald Macleod, and John Morrison have surrendered themselves to receive the punishment they deserve. But whatever may have been your mistake on this point, every one of you is aware that to seize grazings belonging to another, to drive off his stock and servants without any legal authority whatever, is a gross breach of the law, even if you have a moral right to these grazings, a fact which must be clearly proved before it is admitted. Then, again, nothing can excuse organised assemblages for the express purpose of intimidation, if not of violence.

Having now shortly described to you what are your offences, I have further to inform you that the Government are resolved to enforce law and order in Skye at whatever cost. No one need fear that injustice will be done him ; but you seem to forget that justice, while she carries a balance in one hand, carries a sword in the other, and that however important may be her duties in removing grievances, those in punishing offenders are still more important.

Some who call themselves your friends may tell you that you have only to resist to gain what you desire. It is my duty to warn you against such evil counsel. Your resistance to the law, and your riotous proceedings, are turning against you those who most earnestly desire to see your just claims satisfied. They begin to fear that your claims may turn out to be as bad as your behaviour has been.

You will, perhaps, allow me to give you a word of advice. Let the men named, viz., John Macpherson, Malcolm Matheson, Donald Macleod, and John Morrison surrender themselves on board the *Jackal*. Let the stock be instantly removed in my presence from Waterstein. Let an intimation, signed for you by your elders, be sent to the tenant, promising security for his stock and servants. I shall now leave you to discuss this matter among yourselves, and I shall be here again to receive your answer on the 10th, at ten o'clock. Meanwhile I should like to visit you in your houses, and to hear from your own mouth what are the grievances of which you complain. I trust you may arrive at a reasonable decision. If you persevere in your present attitude, though I shall regret what may befall you, I shall be obliged to admit that you have none to blame but yourselves.

The discussion which took place at the meeting was conducted by the crofters with remarkable ability, and the facts brought out fully corroborated the grievances already

enumerated in these pages, and many others besides. The people were told that if they surrendered and went to Edinburgh all their grievances would be listened to and fully enquired into, promises which, as the sequel proved, and as those who made them should have known, turned out completely false; for the only matter of which any discussion was allowed in Court, was the narrow and technical question as to whether the accused were guilty or not of a Breach of the Court of Session Interdict. The following conversation which passed at the meeting will be found interesting in many respects :—

John Macpherson, said, in reply to statements made, that none of the people ever put cattle or sheep on Waterstein. The place was not fenced in, and it was perfectly impossible for the crofters to prevent their cattle from straying there. He then related how that eighteen years ago Tormore gave grazings for 150 sheep belonging to other tenants than those of Glendale; how, when the Milovaig people were away at the fishing, the shepherds put these sheep on their (the Milovaig tenants') land; how they were never taken off; and how, since they were deprived of grazing for 150 sheep for eighteen years, they were entitled to get something in return. They complained to Tormore of the giving of their grazing to other townships, but got no redress. They told the shepherds to take away these sheep to their own lands, but the shepherds, acting under Tormore's orders, would not.

Captain Macdonald, of Waternish, said, if he (Macpherson) would go to Edinburgh, all this would be heard; they would be allowed to produce witnesses.

John Macpherson said the Milovaig tenants had been there for 37 years. When Tormore took Waterstein a year or so ago, he came there as a new tenant. Now, before Tormore, then factor, took Waterstein to himself, the crofters offered to take it at the old rent. They would not get it although they had been 37 years in the place. When Waterstein was out, was it not as fair for the crofters, so long there, to get it at the full rent, as it was for Tormore, the factor, to take it? Would the Government support them, and send witnesses after them to Edinburgh to prove this?

Captain Macdonald said that any witnesses that would be cited by the Government would be paid. He had heard that Tormore offered to put

up a march between his farm and the crofters' townships, but that the crofters would not allow him.

John Macpherson said that was not correct. He had been 37 years in Milovaig, and he and the other crofters thought that no fence ought to have been put up without their having been consulted ; the factor's fence was to have taken a straight line, and this would have taken some of the crofters' land away.

Peter Mackinnon, a crofter, and keeper of the Post-office at Glendale, repudiated the charge of lawlessness made against them, and pointed to his own services in the Crimea, particularly at the siege of Sebastopol, in proof of his desire to respect order. He had medals of good conduct at home. He had been in Glendale for the last twenty years. He used at one time to buy the fish from the fishermen, but Tormore, when he came, would not allow him to do so ; and by that act of tyranny, he had lost £100. He charged the factor's servants with having with their dogs driven his cow against a fence. The cow died, and he lost £12. He got no compensation for that. The Glendale people were never allowed to go to law, by the tyranny of the factor. Tormore was the Sheriff in this place. When he (Mackinnon) went to Tormore, and bitterly complained of his conduct in preventing the fishermen from selling their fish to him, and in taking the fish himself, Tormore's answer was, "You are reading too many newspapers, and you don't deserve to get justice". During the time of his factorship Tormore never allowed any case in dispute to go before the Sheriff at Portree, but he decided them in his own way. The people would be evicted if they went against his decision. What the people now wanted to do was to break this tyranny of factors and proprietors, and not to break the law. For 20 years there had been no law in Glendale, but the law of the factor. Mackinnon denied that the people deformed Mactavish, till Mactavish lifted a stick ; and then a half-witted lad threw a pail of water about his ears. The present factor was as bad as the other. Solomon, that was Tormore, beat them with swords ; but Rehoboam, that was Greshornish, tormented them with scorpions.

Captain Macdonald said the proprietors might be wrong, and the crofters might be right ; but when, in going against the proprietors, the people maltreated policemen and officers of the law, they were grossly breaking the foundations of all good society.

Peter Mackinnon replied that they had heard it said that "Britons never shall be slaves".

Captain Macdonald said the Glendale people would not be slaves ; they would get justice.

Peter Mackinnon said they had been slaves, and it was a fine thing to see the Union Jack of Great Britain coming in there to take them away. The Union Jack should do away with slavery. The Glendale people had been slaves since ever he was born.

Captain Macdonald said it was to put this right that he came to give them advice.

Peter Mackinnon defied any one to say he ever broke the law. At last election Tormore said to him—If you go against me with Lochiel—“if you go against me”—you will cause all the proprietors in Skye to go against you.

Mackinnon, continuing, said the sun and the moon would change their courses before the conditions asked would be given. He was, of course, only speaking for himself. He referred to requirements two and three only. It was impossible, he added, to keep stock off ground that was not fenced, especially at this time of the year. It would cost £20 a-year to keep a herd for the purpose, and how could he, with a single cow, pay that money? Such conditions were entirely out of all question. He declared that no one could fulfil them. Why would not the proprietor or tenant fence Waterstein? Surely every one who had a property was bound to defend it. Were the crofters to guarantee that their stock was not to wander on the proprietor's land; would the proprietors guarantee that the factor's stock should not wander on the crofters' land? That was only fair, because the proprietor put up no fences. The four townships of Bracadale had been crowded down upon those living in Glendale—evicted from Bracadale. It was utterly impossible for them to exist under present circumstances. The proprietors had dealt with them in a bloodthirsty way. Tormore promised them Waterstein, but would not give it them although they offered the same rent as was paid by the former tenant.

John Macpherson said Tormore was giving grazings for 150 sheep for 18 years. There were 150 sheep on the Milovaig pasture all that time. They now wanted the factor to pay the crofters for the grazing of their sheep for the last 18 years.

A crofter (excitedly) said although they took all the men away from Milovaig to Edinburgh, it would not stop this agitation. (Applause). They might be imprisoned, but the agitation would not be put down. They must get more land before the agitation would stop.

Captain Macdonald—You are young men, and I am an old man. If you take my advice you will give yourselves up.

A crofter asked who was to support their families while they were away?



Captain Macdonald replied that Campbell, the inspector of poor, was there to look after them !

A crofter asked who is to pay for the witnesses ?

Captain Macdonald said the country would guarantee that they would be paid.

A Crofter—Guarantee will not do, but the money. (Laughter.)

Captain Macdonald—I have little doubt you will get the money.

We are not aware that any of the promises above made as to the maintenance of the families of the men, or providing money to pay for their witnesses, have been implemented.

### THREE OF THE CROFTERS AGREE TO SURRENDER AND GO TO EDINBURGH.

At a meeting held immediately after the deputation from the *Jackal* had left, the people decided that the three men, John Macpherson, John Morrison, and Donald MacLeod, should proceed to Edinburgh by the *Dunara Castle*, but not by the government gunboat, for they would not have it said of them by future generations of their countrymen, "that Glendale men had to be taken away from their homes in a man-of-war". Peter MacLean, Merchant, Dunvegan, strongly urged them to this course, telling them that—"There was no doubt an arrangement would be made for the support of their families while they were away. A committee would be formed to gather subscriptions everywhere for their support, and they had Captain Macdonald's guarantee that witnesses for their defence would be sent to Edinburgh." We are curious to know, for certain, how far these promises have been kept, as our information at present is by no means of a satisfactory character, and scarcely creditable to those who made them.

On the following Monday, the three crofters went aboard the *Dunara Castle*, after bidding farewell to their families

and friends, many of whom were steeped in tears. The special correspondent of the *Inverness Courier*, who was present, informs us that—"John Macpherson, who is a man of striking appearance, bold and manly bearing, great intelligence, and considerable mental power, had a word of comfort and re-assurance for all. 'If I was going,' he said to them in Gaelic, 'to jail for a sheep or for a lamb, you might be very sorry. But, as it is, you ought to be very glad. For we go to uphold a good cause ; we go to defend the widow and the fatherless, and the comfort and needs of our hearths and homes.' This he told to his wife and family, and, with these characteristic words, delivered with the eloquence for which he is distinguished among his fellows, he reassured the people who gathered here and there on the roadside between Milovaig and Colbost."

On the following Wednesday, the men arrived in Glasgow, and called on some of their friends, who provided for them in a comfortable hotel. Immediately afterwards, a letter was sent the Prosecuting Agents in Edinburgh, that the three men would appear before the Court of Session as soon as a diet could be fixed. The reply to this letter was the unexpected appearance of a messenger-at-arms and his officers at their hotel, before six o'clock in the morning on the following Friday, who at once gained admittance to their bedrooms, arrested them, and hurried them off by train to Edinburgh, without even allowing them to partake of breakfast, which had been ordered the night before. They were, on their arrival, taken to the Calton Prison, but the governor refused to admit them on the warrant produced, when they were removed to the Ship Hotel, and there provided for under the charge of Mr. MacTavish, the Messenger-at-arms who arrested them.

Their case was taken up by Mr. Robert Emslie, S.S.C.,

Edinburgh, and Mr. Dugald Maclachlan, Writer, Glasgow, who secured the services of Mr. Dugald Mackechnie and Mr. Burnet, Advocates, for the defence.

#### BEFORE THE COURT OF SESSION.

On Tuesday, 20th of February, the three men appeared before the Court of Session, when Mr. J. P. P. Robertson, for the Trustees, moved for sentence for Contempt of Court and Breach of Interdict. Mr. Mackechnie asked that they should be allowed to lodge answers at that stage, offering to find caution for their appearance for any amount the Court might fix. The application was granted, bail being fixed at £100 each. The cautioners were at once forthcoming. Major Neil MacLeod, Eskbank, late of the Royal Artillery, the Rev. J. Mackinnon, Edinburgh, and Mr. Samuel MacLaren, Merchant, Leith, entered into the necessary bonds. The Answers were ordered to be lodged within forty-eight hours. This was done on the 23rd, giving a general denial to all the charges made against the men. The following extract—although no evidence was permitted to be led in court regarding it—will show how these poor people have been driven to extremes :—

For many years previous to the year 1845 these lands were occupied by eight tenants on each of the Milovaigs, and one tenant on Borodale. They paid a rental of about £7 each per annum for their crofts, and with the aid of fishing they were able to live. Each family then possessed five cows, twenty sheep, and a horse. In or about that year, however, the then proprietor of the said lands subdivided the Milovaigs, into sixteen crofts or lots each, in order to provide for a number of tenants whom he had removed from the neighbouring farms of Bracadale and Minginish. The position of the crofters was very much deteriorated by this subdivision, and still more so when, some three or four years ago, the number of crofters on each of the Milovaig farms was increased to twenty on each, and to four in Borodale, in order to find room for tenants removed from other holdings on petitioners' lands. No addi-

tional land was allotted to the crofters, who now, with their families, number nearly 400, instead of less than 100; and the crofts or lots left to them are far from sufficient for their subsistence.

After hearing counsel, their Lordships ordered the case to be set down for trial at ten o'clock on the 9th of March, the evidence to be taken before Lord Shand.

Meanwhile Mr. Emslie, and Mr. MacLachlan, with John Macpherson, proceeded to Glendale, to precognose witnesses on behalf of the accused. This completed,

### THE TRIAL

Took place as arranged, before Lord Shand on the 9th of March, Mr. J. P. P. Robertson, and Mr. Graham Murray conducting the case on behalf of the Trustees, and Mr. John H. Macdonald, Q.C., Dean of Faculty, Mr. Dugald Mackechnie, and Mr. D. Burnet, appearing for the crofters, Mr. Donald Mackinnon, M.A., Professor of Celtic Languages in the University of Edinburgh, acted as interpreter. The evidence was strictly confined to the question of Breach of Interdict. The general question of the crofters' grievances, and of how they had been driven to extremes, was sternly excluded from consideration. Mr. Donald Macdonald, Tormore, late factor, distinctly admitted, however, in cross-examination, that the people "did not propose to get Waterstein for nothing," but were willing to pay for it a rent, "to be matter of adjustment like any other rent". He also admitted that there were other grounds for the crofters' complaints about the Borodale sheep grazing on Milovaig; that 100 was the proper summing, although the tenants were allowed by him to have on it at least double that number, and that these sheep were driven by the Waterstein shepherds on to the Milovaig grazings. "That complaint," he admitted, "may be quite true." The Waterstein shepherd also ad-

mitted having driven the Borodale sheep from Waterstein on to the crofters' grazings at Milovaig, but still he was on friendly terms with the people. The crofters naturally resented these proceedings of driving strange sheep to eat up the grazing which was already so circumscribed that their own sheep and cattle were half-starving upon it, and they drove back the sheep upon Waterstein, thinking such a proceeding perfectly fair; and what they considered fair, they thought, in their innocence, must be also perfectly legal. They soon discovered their error, when they came in contact with the Court of Session, acting as judge and jury in their own case. The evidence taken before Lord Shand having been printed, the Judges of the First Division—the Lord Justice-General, Lords Deas, Mure, and Shand, met on the 15th of March, and heard counsel in the case. Mr. Robertson for the MacLeod Trustees, ably summed up the evidence for his clients, and moved for sentence.

The Dean of Faculty, in a masterly speech, went over the whole case for the respondents. He said that:—

The first witness called for the petitioners was a man who knew the ground intimately—John MacDiarmid—and he told them that the marches between Milovaig and Waterstein farm were regularly repaired except last year—he (the Dean) presumed by the proprietor—so that, as far as the petitioners were concerned, they came forward for the purpose of endeavouring to make out that the respondents had suffered sheep to stray and pasture upon their lands; while the first thing that was learned about what was done by the petitioners was that, for the first time for many years, nothing was done by the petitioners to put their own fences in proper order. That being so, the next fact to which he wished to call attention was that upon the other side of Milovaig from Waterstein, the factor of these trustees had, upon his own showing, allowed the four crofters of Borodale to have a stock of sheep which he himself admitted the township could not possibly carry—that about 100 sheep could be carried by the township, and that last summer, with his consent, the four crofters had 200 sheep upon Borodale. These sheep being too many for Borodale, the Borodale crofters went to Tormore, and asked



him what was to be done. By a direct arrangement, or by a tacit arrangement, or by a misunderstanding, the whole of these 200 sheep, with the exception of one, which he supposed was sick—(a laugh)—were driven down through Waterstein to Ramasaig, past the end of Milovaig township. These sheep, as sheep did working their way towards their own pastures, naturally went through Waterstein and through the Milovaig land. His case was that not only did they do so naturally, in consequence of what Tormore allowed, but that in point of fact the people upon Waterstein knew that they did so, and that, knowingly, they drove the sheep on to Milovaig. The respondents maintained that a great deal of the excitement and anger of the Milovaig crofters was caused by this indiscriminate thrusting over their march of sheep which belonged to Borodale, and could not admittedly be pastured on Borodale. There had been no attempt made by the servants at Waterstein to discriminate between Milovaig and Borodale stock. They only knew that strayed sheep were upon the ground; and in particular, nothing was done to find out whether any of the sheep of the three respondents were upon Waterstein. That surely, when these three men had been specially picked out, should have been done. It appeared from the evidence of Macdonald that the shepherds had a general instruction to drive all sheep straying upon Waterstein on to Milovaig. But not the slightest attempt was made here to identify any sheep. Even Robertson, the factor, merely said, "I knew they were strange stock, but I did not know to whom they belonged". Surely this was a case, when it was proposed to punish people for an alleged offence, where the sheep should have been impounded and the marks examined. It was clear from Robertson's testimony that he knew that the Borodale tenants had an overstock of sheep, which could not subsist upon their own ground, and that there had been complaints on the subject; but as to the conversations which took place at the meetings there was naturally some haziness, as Robertson knew not a word of Gaelic, and the speakers little English. The evidence of the petitioners proved that, for the first time in the history of those townships, the people who were anxious to get an interdict for the purpose of protecting their property did none of the ordinary repairs on the fences as in former years, and that they knew, both by their factor and shepherds, that there was stock trespassing on their land with which the respondents had nothing to do, but which, nevertheless, they pushed back on Milovaig. He ventured to say that one could not very well imagine more unfavourable circumstances for the petitioners coming forward to ask that people should be punished for allowing their sheep to be on their land.

The evidence given for the respondents was to the same effect. The order of the Court was to prevent the people of Milovaig doing on Waterstein what the Waterstein people were doing on Milovaig ; and, considering all the circumstances, that would necessarily create irritation. There was only general evidence that sheep came upon Waterstein, and were driven back on the Milovaig townships. In this evidence Macpherson said that the sheep might have been backwards and forwards over the marches, and as there were no fences, and as the work had to be done by shepherds, that was a thing which could not have been prevented. In reply to a question by the Court, the Dean of Faculty said that the Milovaig people kept a shepherd, but that they stopped herding the sheep when they found the Borodale stock was continually thrust back upon their land. The second point against them was that they trespassed on the lands of Waterstein without any valid excuse. Now, if anyone went on Waterstein for an illegal purpose, that would be trespass ; but if they went to speak to the shepherds on business in a friendly way, the element of trespass would not enter. But he took it that this charge of trespassing would be taken in connection with the last charge, that of molesting the petitioners' servants and threatening them. As to that, he thought he had succeeded in showing their Lordships that the Milovaig people had good ground of complaint against the shepherds for their persistence in doing what was wrong—viz., in sending Borodale sheep upon their land. There was no doubt from the evidence that this matter of the Borodale sheep was a substantial grievance. This was a most important element in considering the question whether this action of the Milovaig people in regard to the shepherds was a breach of interdict, because this was interference to prevent a thing which the Court had never contemplated or authorised these petitioners to do. It was clearly an illegal act for the Waterstein shepherds to drive Borodale sheep on to Milovaig. It was a remarkable thing that the quarrel of the crofters was against Macdonald, the under shepherd, and not against MacDiarmid, his chief. That clearly showed that the feeling was due to Macdonald persistently driving these Borodale sheep upon their ground. Even MacDiarmid had a quarrel with Macdonald upon the subject, and had gone the length of calling him a liar, because he had deceived him on that very point. At these meetings which had been spoken to there was no doubt a good deal of excitement and ill-feeling, and things were said by individuals in the crowd which the rest of the people would repudiate ; and certainly nothing had been brought home to the respondents, as having said anything or done anything that could be called violent at any of these meetings.

For the statements in the petition, in so far as they were concerned, there was not the slightest evidence. Indeed, as to Macpherson, the witnesses were not sure whether he was even in the crowd. As to the alleged assault on Macdonald at Ramasaig—which was the most serious thing charged—Macpherson and Morrison were not at Ramasaig, but remained with Nicolson, the shepherd ; and Macleod, though he went a little further with the crowd than the other two, was not with the crowd when the alleged assault was committed. In conclusion, the Dean said this was about the first time for two generations in which it had been necessary in the case of Highlanders that any interdict should be granted against them. It was a kind of process with which they were not well acquainted. They were not well acquainted with lawyers or with judges ; and their intercourse with the policeman of the district had been of the slightest and most friendly kind. He could not help thinking that when their Lordships considered the whole case, they would come to the conclusion that there was a mixed feeling on the part of these people, greatly caused by this, that while the law was being used against them to produce a state of things which was perfectly legal and right, but which was not usual in these townships, where there was a great deal of freedom, and where they had managed to get on in the same way for generations, a cause of irritation was introduced either by the carelessness or want of reasonable attention to their duties on the part of the petitioners' servants—that these people, after being forbidden to send their stock across the march, had from time to time, and in spite of remonstrance, large quantities of stock thrust upon them by the Waterstein servants, who knew well that it did not belong to Milovaig at all. In these circumstances, he submitted, it was not a case in which the Court should find these men guilty of intentional breach of the interdict granted, but that their Lordships should hold that the case had not been made out.

Lord Shand, in giving judgment, said—My Lord, the single question that is raised by the proceedings in this case is whether the respondents have committed a breach of the interdict or order of this Court. That interdict was granted upon the 6th July, 1882, and was duly intimated to the respondents and a number of other crofters in Milovaig, as the original interdict had also been duly intimated to them. The order of the Court was an interdict, as has been pointed out by the complainer's counsel, striking at three different acts on the part of the respondents. The Court interdicted, and prohibited, and discharged the respondents entering or trespassing upon the lands or farm of Waterstein. Again, they were interdicted from pasturing or herding their sheep or cattle on

those lands or any part thereof, and from allowing their sheep, horses, or cattle, to stray thereon, or on part thereon; and, finally, they were interdicted from obstructing, molesting, or interfering with the complainers in the occupation of the lands or farm, or with their tenants, dependants, or servants. I regret to say that I have come to the conclusion, and come to the conclusion without the smallest difficulty, that the respondents have each and all of them been guilty of a violation of the order of the Court. It is necessary that reference be made to some of the observations that have fallen from my friend, the Dean of Faculty, to inquire what was the duty and obligation which the order of this Court laid upon the respondents. It has been said that the landlord's fences upon Waterstein ground were not in a sufficient or proper condition. That element does not appear to me to have a material bearing on this question. The order of the Court required, on the part of the respondents, something active to be done. They were required to refrain from trespassing, to take steps to prevent their sheep from going upon these lands, and, again, to refrain from molesting the servants—the shepherds of the complainers—in the performance of the duty which they owed to their employers; and it is no answer to the complaint to say that obligation and duty has been neglected because there was a want of fencing on the part of the landlords. It is true, if the respondents had been in a position to say, "We did our best to fulfil the order of the Court, but in consequence of the fences on the landlord's march all our efforts were unavailing, our sheep have strayed to Waterstein," of course there could be no reasonable complaint made against them. But the case that is presented is not one of that kind. The case presented by the complainers is that although that order of the Court was intimated to the respondents, and known to them, they deliberately and wilfully set it at defiance. In regard to the other two branches of this interdict, of the respondents allowing their sheep to go from Milovaig to Waterstein, I think the case is clearly proved as against two of the respondents now at the bar—I mean John Macpherson and John Morrison. There is a second matter to which I have referred, and it is also of a very serious kind. The charge there is, that those respondents, in conjunction with others, were guilty of interfering with and obstructing the complainers' shepherds in the performance of their duty. While, no doubt, that raises a separate and additional point, I must observe that it enters very fully into the first point with which I have already dealt, because, even if it be the fact that there was a want of fencing or a deficiency of fencing, all the more was it necessary, when an interdict of this kind was granted, that the persons complained against

should refrain from interfering with the shepherds, because the shepherds alone could serve the purpose of keeping the sheep out because of the defective fencing. Upon this branch of the case I have no difficulty in holding that it has been proved there was a combination and arrangement among a body of crofters on Milovaig ground to drive the shepherds away from keeping the march with Waterstein, and, I regret to say, that they succeeded in their purpose. The steps that were taken, as appears in the evidence, upon repeated occasions, were not acts of single individuals; but I think on at least two occasions, if not more, it is proved that when meetings took place between the crofters and the shepherds, and the factor to whom the crofters addressed themselves, there was generally a body of twenty, thirty, and forty men at a time. The evidence, I think, clearly shows—and I really do not mean to go into it in detail—that the three of the complainers' shepherds were, in dread of personal violence, compelled to desist from the performance of their duty. I cannot imagine any more distinct or overt act in defiance of the order of the Court than that which I have described in reference to the treatment of those different shepherds. The only question that remains—it being clear that these are the facts of the case—is whether any possible defence can be set up in reference to those proceedings. It has been said on behalf of the respondents—I do not know whether it may represent anything beyond an explanation, or, possibly, a kind of excuse—that the complainers were themselves guilty of wrongful acts from time to time in allowing their shepherds to drive the Borodale sheep down from the Waterstein grazing upon Milovaig. At one part of the Dean of Faculty's address, I thought he almost ventured to put that as a defence of this complaint, but I must say, for my part, I cannot see how it possibly could be made a defence. The Court having ordered that the respondents in this case should take measures to prevent their sheep going on this ground, it would be no justification of their disregard of that order that the complainers here were doing something wrongful on their part. I could quite understand, although I certainly could not justify, the Milovaig people saying, if sheep are driven upon them which had no right to be there, they would drive them back again, provided there were no interdict or injunction on either side; but in a case in which there was a direct order of the Court, which the respondents were bound to obey, it would be no answer that there were any illegal proceedings carried on against them. It was equally open to them to resort to the law for protection.

After a few further remarks his Lordship concluded—My Lords, I do not mean to detain your Lordships further; I am of opinion, on the



evidence, that it has been proved that two of the respondents, Macpherson and Morrison, have been guilty of a breach of interdict, in allowing their sheep to go on to the Waterstein pastures, and that all of the respondents have been guilty of breach of interdict, in respect that they interfered with and obstructed the shepherds of the complainers in the performance of their duty, and that their acts in doing so were, in some instances, accompanied by serious violence ; and I am of opinion that the respondents should receive punishment accordingly.

Lords Mure and Deas concurred, and the Lord President, after a few remarks passed—

*Sentence of Two Months' Imprisonment*

On each of the accused, who were removed from the bar amid the applause of a crowded court.

THE MARTYRS IN PRISON.

They were conveyed in a cab to the Calton Jail, where they were at first treated as common criminals, put in prison garb, two of them, MacLeod and Morrison, having had their hair cropped. Macpherson pleaded that his hair might be left untouched until the following morning, as he expected then to get out. This was agreed to, and, although Macpherson was disappointed regarding any expectations he may have formed as to getting out of prison, he was permitted to retain his hair ; for the prison officials discovered before morning, that they had committed a serious error in treating the Glendale “martyrs” as common criminals. The prison regulations provided that for Contempt of Court—that of which they had been found guilty—they were to be treated in quite a different manner. The officials could not replace the hair so unwarrantably cut off on the previous evening, but to the mens’ great satisfaction their own clothes was returned to them next morning. They were told that, according to the regulations, friends would be

permitted to visit them ; that they might receive food from outside, if they, or their friends, chose to supply and pay for it ; that they could have any books and newspapers supplied to them, at their own expense or at that of their friends ; and that they were to take their exercise separately from the criminals in the prison. Instead of the hard boards, as they had for the first night, to sleep on, they were supplied with excellent beds and bedding ; they were placed together in a large room, and amply provided with fire, and other conveniences ; while the only work of any kind they had to perform, was to scrub out their own room twice a week ; and this the regulations permitted them to get done by others, if they preferred to pay for it. Their food was supplied daily, three times a day, from a neighbouring restaurant, by the Edinburgh Highland Land Law Reform Association, through Mr. Dugald Cowan, Secretary, who also supplied them with books, magazines, and newspapers, and such other little comforts as the prison regulations admitted of.

We paid them a visit in the jail, on the 6th of April, and intimated, among other items of news, that we succeeded in collecting about £20 among Inverness friends, to aid in their own maintenance in prison, and the support of their families at home, during their incarceration. They expressed themselves extremely grateful for the interest taken by outsiders in their case, and in their families, and desired us to intimate to their friends that they were more comfortable in prison than they could possibly have expected ; that every official was as considerate as the regulations would allow ; and that they had nothing but good to say of everyone connected with the prison. We found them all in the same room, provided with the best bedding and a good fire. They strongly urged that their friends at home

should not commit any act which would bring odium on those who sympathised with them outside, and that they should keep strictly within the law. John Morrison—the eldest of the three—had been complaining, but he was fast recovering, and the others were in excellent health and spirits. Believing that the circumstance was not accidental, they were much delighted at the enlivenment of their evenings by frequently hearing the bagpipes, in the neighbourhood, playing familiar airs,—an arrangement by their Edinburgh friends of a remarkably considerate and delicate nature. The only thing they complained of was that John Macpherson, the only one of the three who could write, had been deprived of writing materials. Otherwise, they were as happy and comfortable as people within a prison, deprived of their liberty, could possibly be. But they were much concerned about their families, and afraid that their crofts might suffer from want of the necessary cultivation and attention to the other Spring work, during their imprisonment.

#### PROFESSOR BLACKIE'S OPINION.

While the Crofters were in Edinburgh awaiting their trial, Professor Blackie wrote a remarkable letter, about their case, to the *Scotsman*, who published it, at the same time making a characteristically violent and false attack on the Professor and other friends of the Highland people, including the present writer, an honour—that of being bracketed with Professor Blackie in any good cause—which he highly appreciates. The letter is as follows :—

9 DOUGLAS CRESCENT, EDINBURGH, *Feb. 27, 1883.*

Sir,—As your columns have always been open to the statement of adverse views, and as your tone lately seems to run somewhat sweep-

ingly against the opinions entertained by myself and many members of the Liberal party who have most practical acquaintance with the Highlands, I crave the liberty to state our view of the Skye Crofters' case with all succinctness. Our sympathies lie emphatically with the law-breakers in this case, and we are strongly of opinion that the real guilt lies with the law-makers—that is, historically, the oligarchs of the soil and the British public, who, after the abolition of the clan system in 1746, made no recognition of the consuetudinary rights of the people in the land, and who, from ignorance or apathy, have allowed laws to remain on the statute-book the direct action of which, when not counteracted by kindly influences, is to over-ride, overwhelm, and at last exterminate the best element of the local population. It is a matter of the smallest consequence, in our view, whether the case for the crofters in the present instance, be legally right or wrong. We know that this Glendale outbreak is a mere symptom of a deeply-seated social disease, for which the land oligarchy and the Land Laws are answerable at the bar of eternal justice. We know, and thousands can rise to testify to it, that there is no tyranny in Europe—not even in Asiatic Turkey—practically more grinding than the tyranny which, under our present Land Laws, the lord of the soil, with his commissioner, factor, and ground officer, may, in remote Highland districts, exercise over the Highland crofters. With these convictions, we have no hesitation in saying that we regard the Glendale crofters as martyrs rather than criminals—not because they are legally in the right, or because it is in any case right to break the law, but because the law is radically wrong, and by its very nature instigates a healthy human conscience to the violation which it condemns. When the law is just, and the devil, so to speak, sits as God's vicegerent on a local throne, it is nothing wonderful that rebellion should break out, and that the rebels should in such cases be not seldom the very select and elect of the land. Such rebels were the Milanese, who revolted against the Austrian rule in Lombardy, and drew out their lives sorrowfully in the dark cells of Moravian prisons. Such rebels were our gallant forefathers—the men who fell at Rullion Green, Aird's Moss, and Bothwell Brig, and shed their blood to purchase for us liberty to breathe on our own Scottish soil, and to read our own Bibles without Anglican dictation. Whatever deeds of blood were perpetrated during the whole seven-and-twenty years of Charles II. and his pig-headed successor were done with the sanction of the law ; and on a smaller and less bloody field the extirpation of the noble race of mountain peasantry that inhabited the once populous Highland glens was done with the sanction of law. The law was

always in favour of the men who had the power ; never in favour of those whose natural weakness made them an easy prey to the ambition, cupidity, or indifference of their superiors. The law could always be used to enrich the few and to impoverish the many. Laws were made with solemn show and executed with unsparing severity, to preserve the game, but never to preserve the people. This is our view of the matter. Instead, therefore, of hastily blaming these unfortunate people, let us go to the root of the evil, and not, like quack doctors, treat a skin disease with external lotions and superficial appliances, when the only cure lies in reforming the whole habit of social life, and sending a strong current of fresh blood through the veins. Let us unite heart and hand for a radical reform of all landlord-made law ! This is my programme ; and I am ready to stand by it, though it should rain laws from the statute-book as thick as pike-staves upon the land. Land Law Reform is the only banner under which the Liberal party can hope to gain glorious victories at the present hour ; and if they should fail to see their opportunity, and timidly take counsel from law cunningly confused with right, and from a political economy which confounds well-being with wealth, the Tories may act more wisely. They are not the worst landlords in the Highlands, to my knowledge ; and if God in His Providence should only send us a second Lord Beaconsfield there is no saying what they might be educated to do. I subjoin a more succinct expression of these sentiments in verse :—

### THE SKYE CROFTERS.

A loud voice blames the men who break the law ;  
I rather blame who made the laws to break,  
Who pressed the yoke so close upon the neck  
Of the hard-driven beast, and rubbed the raw,  
That in a fretful fit it kicked the board  
And tossed the rider. Blame your want of skill,  
Blind oligarchs, and your uneven will  
To maim the peasant and to arm the lord.  
Woe unto you, the grasping crew who join  
Wide field to field, and house to house, that you  
May live sole lords of earth, and rack and screw  
The poor to trick forth Mammon's gilded shrine !  
God is not mocked, whose bolt their head shall smite  
Who stamp His name on Might and call it Right.

JOHN STUART BLACKIE.



The comments of the *Scotsman* on this letter were so grossly false and unfair, that the writer was impelled to apply a little good-natured criticism to the Whig organ on his relation to the Highland people, which appeared in the April number of the *Celtic Magazine*, in the form of a short article, subjoined, and of which he sent the Editor of the *Scotsman* an early *proof*, with the following note :—

INVERNESS, *March 16, 1883.*

Mr. Alexander Mackenzie, who is honoured with a share in an article in to-day's *Scotsman*, presents his compliments to the editor of that journal, and at the same time presents him with an early proof of a little free criticism which is to appear in the April number of the *Celtic Magazine*. Mr. Mackenzie—who is quite satisfied with it as a reply to that and other articles in the same journal—has no doubt the editor of the *Scotsman* will accept this small compliment in the same spirit and with the same satisfaction with which Mr. Mackenzie accepts the slight attentions which he delights to receive occasionally from the *Scotsman*.

There can be no objection to the reproduction of the article, with this note, and the *Scotsman's* criticism thereon, if the editor desires to help in the laudable object of extending its circulation.

More definite and detailed information will be forthcoming if desired.

It is unnecessary, perhaps, to state that the *Scotsman* produced neither the note nor the article accompanying it, the latter of which was as follows :—

#### THE “SCOTSMAN,” PROFESSOR BLACKIE, AND THE HIGHLAND CROFTERS.

In a recent issue of the *Scotsman*, Professor Blackie published a letter, which we subjoin, setting forth his views on the present agitation and disturbance among the crofters in Glendale, Isle of Skye. This letter the *Scotsman*, as the special organ of the Scottish Landocracy, could not conveniently swallow, and in trying to dispose of it by a less dangerous process, it lost its head. It has done more ; it has thrown away the semblance of any ingenuousness and fair-dealing which innocent people thought had yet remained to it.

Professor Blackie, speaking for himself and those who agreed with him, wrote—“Our sympathies lie emphatically with the law-breakers

*in this case*”; that is, with those who had broken the law in Glendale; for he says immediately after, in the same paragraph of which the above quoted sentence forms a part—“We know that *this Glendale* outbreak is a mere symptom of a deeply-rooted social disease for which the land oligarchy and the Land Laws are answerable at the bar of eternal justice.” The *Scotsman*, with characteristic unscrupulousness, when dealing with an opponent, which no other publication in Scotland has yet attained to, twists this plain statement into a charge against Professor Blackie of sympathising “with law-breakers *as such*”.

The Professor further says, and says truly, “that there is no tyranny in Europe—nor even in Asiatic Turkey—practically more grinding than the tyranny which, under our present Land Laws, the lord of the soil, with his commissioner, factor, and ground-officer, *may*, in remote districts, exercise over the Highland crofters”. How does the *Scotsman* deal with this carefully-qualified statement? “It is to be read,” it says, “as stating that this grinding tyranny is practised.” It certainly should have been both written and read to that effect as regards the conduct during the present century of many of the class referred to. Professor Blackie, however, does not go that length about any lords of the soil, commissioners, or factors, but the *Scotsman* magniloquently declares, notwithstanding, that “it is a baseless calumny to say or to hint that landlords and factors are, *as a whole*, guilty of tyranny and oppression”. [The italics in the foregoing quotations are ours.]

Who ever said or hinted any such thing as is here placed in Professor Blackie's mouth. Neither in his letter to the *Scotsman*, nor anywhere else, did he ever say anything of the kind. He has often, in our hearing, and to the knowledge of his unfair and unscrupulous accuser, said the very reverse. No one has written more warmly in favour of good landlords and considerate factors than he has done, and many good specimens of both are, happily, still to be found in the Highlands.

Enough has been said to show the nature of the attack so violently made upon him, but we may fairly ask what right has the *Scotsman* to assume to itself the position which it has done on the Highland Crofter Question? At any rate it is proper in the circumstances that we give a few reasons why it should not be for a moment listened to by any one who has the interest of the native population of the Highlands at heart, for its conductors show singular ignorance of the facts as to the position and interests of the Crofters, and it has never failed to malign and misrepresent them.

The *Scotsman* itself, conducted, as it is, under influences foreign to Scotland and Scotchmen, naturally tries to encourage proceedings in the

Highlands, which would obliterate and destroy all traces of Celtic nationality ; and, to accomplish this end, it delights in fostering a system by which the Southern sheep farmer and the English sportsman monopolise the Highlands, and drive the native population out of the country, caring not whither they go.

While the paper in question has always proved itself the inveterate and uncompromising enemy of the Highland Crofters, this anti-Celtic feeling has, if possible, become more intensified in recent years.

In 1878 the *Scotsman* sent to the Highlands and Islands a "Special Commissioner" to describe the condition of the Crofters, whose main purpose seems to have been, if we may judge by results, to misrepresent and vilify them ; and he has taken little trouble before making his ignorant aspersions, to ascertain the facts. It is capable of proof that he described the whole of North and South Uist, Benbecula, and Barra—a district of country seventy to eighty miles long from north to south, and containing a population of 12,503 souls—without ever leaving the neighbourhood of Lochmaddy. The same state of things can be proved in the case of a wide district of the parish of Gairloch and other West Coast estates. The public were led to believe all this time that the "Special Commissioner" was giving the results of his personal experience, and of his own investigation into the circumstances and surroundings of the people ! Were the conductors of the paper cognisant of these facts ? We know that letters pointing them out were refused insertion by the Editor.

In February last the *Scotsman* sent another "Special Commissioner" to the West, to give its readers an impartial (!) account of the disturbances in the Isle of Skye, especially in Glendale. Those who knew anything about the subject at once saw, when this Commissioner's letters appeared, that they were little else than a badly-arranged hash made up from Sir John Macneill's Report, the New Statistical Account for the parishes of Bracadale and Duirinish, and stale stories repeatedly told by the factor to ourselves, among others, before the "Special Commissioner" of the *Scotsman* ever visited the Isle of Skye. But this was not all ! While he was supposed by the misinformed portion of the public to have derived his information from independent sources, he was actually found to be the guest of the factor for Glendale, from whose residence, at Edinbane, nearly thirty miles from Glendale—the district supposed to have been described—his letters were dated. Here the "Special Correspondent," sent by the *Scotsman* to Skye when the "Jackal" paid her visit to Glendale, actually found the "Special Commissioner" of his journal, presumably much to his disgust and

annoyance ; for the position of affairs had been discovered by the other representatives of the Scottish and English press who visited Skye on that occasion, and they, with many of the natives, naturally chuckled and sneered at the supposed impartiality of the information obtained and published by the *Scotsman* under such conditions. It may be stated that the "Commissioner's" recall soon followed the arrival of the "Special Correspondent" at head-quarters, and it may be fairly surmised that there was some connection between the one event and the other. A few of the natives are wicked enough to say that some fat sheep had almost simultaneously disappeared from the district, but what became of them has not been clearly ascertained. It is, however, quite understood that no one but the owner is in any way responsible for their disappearance.

An exposure of the sources from which the *Scotsman* and a few other newspapers receive their Skye local correspondence might prove interesting, and it is possible we may yet feel called upon, in the interest of the people of Skye, to enlighten the reader on that subject.

May we not meanwhile fairly ask, Is this a paper which the Scottish people ought to accept as a safe guide on any question affecting the Highlanders? Its very name has become a misnomer in recent years, edited, as it is, by an English Catholic, under whose guidance the once renowned and brilliant *Scotsman* in spirit and objects, as well as in name, has become the violent antagonist of institutions the most highly cherished and revered by Scotsmen, and whose attacks upon these are only equalled by its ridicule of the Catholic Church, religion, and creed. It is impossible for any good Scotsman not to feel regret for the fall in recent years of a paper in which we all felt a natural pride from a position in which intellectual power and marked ability were its distinguishing characteristics to one of mere common-place, in which it is principally distinguished by disingenuousness of argument and personal scurrility.

The support by the *Scotsman* of any one, under its present guidance, is the surest proof that he who secures it is no real friend of the Highlanders.

Since the above was written, the same paper, on the 22nd of March, published in large type, a sensational telegram from Portree, and another from Inverness, in the first of which it was stated that the Glendale "Crofters assembled in numbers from the different townships, proceeded to

Waterstein, and again drove the proprietor's stock off the hill"; while the one from Inverness asserted that, "There is no doubt of the fact that the Crofters of Milovaig have resented the action of the Court of Session, in the case of John Macpherson and the others, by a demonstration of defiance of the law. . . . The horns sounded in the Glen early in the forenoon, the people assembled, men and lads, proceeding to the grazings of Waterstein; they drove off the stock that belonged to the trustees, and replaced them with stock that belongs to themselves." These statements, so circumstantially paraded before the public, turned out to be absolute falsehoods, without a vestige of foundation. Yet the *Scotsman* gave them the greatest prominence, and wrote another lying, sensational leading article, based upon them, in which the crofters and their friends were ponderously abused, as the very scum of creation. Next morning his Dunvegan correspondent contradicted the Portree telegram of the previous day, but the *Scotsman* published this contradiction with an editorial qualification which falsely suggested, though it did not actually say, that the same correspondent was responsible alike for the falsehood and its contradiction.

The public sentiment regarding the trial and punishment of the Glendale Crofters, and the position of the great Whig Libeller in relation to the whole case of the Highland people, were well stated in a leading article in the *Greenock Telegraph*, immediately after the trial, thus:—

The result of the trial of the Glendale crofters has been in strict accord with the expectations of all who have studied the long and sorrowful story of which this is the latest chapter. The Judges are obliged to act upon statutes framed by a class in their own interests; and in the present instance it was hardly possible for them to be more lenient than they have been. It is beyond their Lordships' province to rise to the region of equity; and the administrators of the law in



Scotland have never been known to violate its letter, except, perhaps, where they had to deal with a statute passed in the interest of temperance or to give the farmer a title to destroy the rabbits feeding upon his crops. Then, as in that queer case from Kelso the other day, the statute is apt to kick the beam in the interest of the public-house ; and nobody needs to be told how the Court of Session drove more than the proverbial coach-and-six through the Rabbits Bill, and made of no account the law that had been newly enacted at Westminster for the protection of the farmer. All these things are duly noted by the public, and the sentence passed on the crofters has this moral disadvantage attaching to it that nobody thinks any the worse of the poor men who are now in prison. They were loudly cheered as they left the dock ; their families will be well seen to—in spite of the *Scotman's* sneers at their friends—while they remain in custody ; and they will be certain to get a warm welcome from the public when the day of liberation arrives. It does not seem to be a desirable thing that the moral sense of the community should be excited in favour of men who have been sent to jail. Either that moral sense or the law with which it conflicts must be defective. In the present case we do not believe that the feeling of the community can be said to be at fault.

Referring to the treatment accorded to the Highlanders generally, as described in the recently published “History of the Highland Clearances,” the same writer continues :—

It makes our blood run cold to read of the enormities that have been perpetrated, which the law has ever been ready to screen, and the *Scotsman* to vindicate with its pretentious philosophy and its affected reverence for a law to which it has always rendered abject submission, except when it was mulcted in damages for defaming Mr. Duncan MacLaren. In that case it took leave to speak of the law in terms which it would no doubt deem most flagitious were they employed by the Glendale Crofters to-day. The same tone has pervaded the vast majority of the press throughout the length and breadth of the land North and South.

#### ATTEMPTED EVICTION OF FOUR HUNDRED SOULS.

The next step taken by the Trustees was a foolish attempt to serve Notices of Eviction on the already too exasperated people of Glendale. It was resolved early in April to

remove them; and, on Friday, 6th of April, forty-five summonses were issued and sent to Angus MacLeod, sheriff-officer, Dunvegan, to have them served, upon as many tenants, within the statutory period. At the same time, about twenty summonses were issued against those living on Dr. Martin's Estate of Husabost. These notices involved the fate of nearly four hundred souls.

The sheriff-officer started on Tuesday, 10th of April, for Glendale, with the view of carrying out his instructions, but on his arrival at Skinidin, a township a few miles on his way to Glendale, he was met by a crowd of from a thousand to fifteen hundred people, ready to oppose his further progress. Angus, realising the position of affairs, and feeling that discretion was the better part of valour, decided to act upon the maxim that "he who fights and runs away may live to fight another day," at once turned right about, and made off at full speed to Dunvegan, from whence, the same afternoon, he despatched the summonses to the Law-agent of the proprietors, at Portree, intimating that he would not, on any account, make a further attempt to serve them.

The people were thoroughly determined not to accept service, and they made arrangements by which notice was to be given to the whole of Skye, to come to their aid, by the lighting of fires at night, or exhibiting flags by day, on certain hills throughout the island, which could be seen the one from the other, thus intimating the approach of a police or military force in a few minutes to the whole island, the population of which, it is now no secret, almost to a man, had intimated their determination to come to the rescue of the people of Glendale in the event of their aid being required. This is also true of some of the neighbouring islands. Better counsels, however, prevailed; and it was wisely resolved by the agents of the Trustees to send the notices of removal

by post, in registered letters, in terms of the Citation Act, which came into force on the first of January last. The letters were, however, all refused, except three, one of these being for Peter MacKinnon, postmaster in the Glen, who was, of course, obliged to receive the one addressed to himself, into the Post Office, in his official capacity. How the matter ended will have been seen in our Introduction.

#### THE ROYAL COMMISSION AND THE HIGHLAND CROFTERS.

A Royal Commission to inquire into the condition of the Highland crofters has just been granted by the Government, composed as follows :—Lord Napier and Ettrick, Chairman ; Sir Kenneth S. Mackenzie of Gairloch, Bart. ; Donald Cameron of Lochiel, M.P. ; Charles Fraser-Mackintosh of Drummond, M.P. ; Alexander Nicolson, LL.D., Sheriff-Substitute of Kirkcudbright ; and Donald MacKinnon, Professor of Celtic Languages and Literature in the University of Edinburgh ; with Malcolm MacNeill, Colonsay, as Secretary to the Commission. A short account of the way in which this concession has been secured may be advantageously placed on record. It was, for the first time, proposed, by the writer of these pages, when, on the 17th of October, 1877, he asked Mr. Charles Fraser-Mackintosh, M.P., while addressing his constituents in the Music Hall, Inverness, the following question, amid the general laughter of the audience :—

Keeping in view that the Government has graciously considered the reputed scarcity of crabs and lobsters, and of herrings and garvies, on our Highland coasts, of sufficient importance to justify them in granting two separate Royal Commissions of Inquiry—will you, in your place in Parliament, next session, move that a similar Commission be granted to inquire into the present impoverished and wretched condition

and, in some places, the scarcity of men and women in the Highlands ; the cause of this state of things ; and the most effectual remedy for ameliorating the condition of the Highland Crofters generally ?

Mr. Fraser-Mackintosh made the following reply, which, with the question, will be found in the *Celtic Magazine*, and the local papers, at the time :—

A Member of Parliament had a certain power, and only a certain power. Now, the question which was here raised was a very large one, and he did not think that he would have the slightest chance of getting such a Commission as was referred to, unless the Government was prepared for the demand beforehand, and unless the request was strengthened by a general expression of feeling in its favour throughout the country. If Mr. Mackenzie, who had written an able letter on the subject, which had attracted great attention, and others with him, could by petition, or by deputation to the Prime Minister, pave the way for a motion, he would be very glad to make it. His moving in the matter without adequate support would hamper and hurt the laudable object Mr. Mackenzie had at heart.

Since that date the question has never been lost sight of, and influential Highlanders extended their support in public and in private to pave the way for action in the House of Commons. The Gaelic Society of Inverness soon after petitioned Parliament in favour of a Royal Commission of Inquiry. Towards the end of 1880, a public meeting held in Inverness, and presided over by Mr. Fraser-Mackintosh, M.P., petitioned in favour of it ; the Federation of Celtic Societies took the matter up ; the Gaelic Society of Perth ; the Highland Land Law Reform Associations of Inverness and Edinburgh got up meetings, and petitioned Parliament ; Mr. Fraser-Mackintosh, M.P. ; Dr. Cameron, M.P. ; Mr. Dick Peddie, M.P. ; Sir George Campbell, M.P. ; Mr. D. H. Macfarlane, M.P. ; and others, kept the question before the House of Commons and the country ; and, on the 22nd of February last, Mr. Fraser-Mackintosh got up a Memorial, signed by twenty-one Scottish Members of Par-

liament, to the Home Secretary, which was forwarded, accompanied by the following letter:—

5 CLARGES STREET, W., 23rd Feb., 1883.

DEAR SIR WILLIAM—I have never taken up your time by letter or interview before in reference to the state of the crofter and rural population of the Highlands and Islands of Scotland, but now feel constrained to do so.

It is upwards of two years since I presided at a public meeting in Inverness, where the position was discussed, and inquiry desiderated. A notice on the subject was put on the paper of the House by me in the summer of 1881, and again early in 1882. A formal resolution praying for inquiry by Royal Commission was tabled. I was, however, never lucky enough to get a first place for the discussion, and I have failed for any night open prior to the ensuing Easter Recess.

In these circumstances, feeling very unhappy at the present state of matters, and believing that many of my poor countrymen are looking to me for Parliamentary assistance, I beg to represent to you as strongly as I can that—

1st. The people themselves desire such inquiry; and on this I may refer to a curious petition presented by me on Wednesday from Glendale, to all appearance the true and unprompted views of the crofters.

2nd. The public in Scotland by numerous meetings and otherwise show that they concur.

3rd. The press of Scotland, from the *Scotsman* downwards, may be said to be unanimous.

4th. The landlords generally, and officials in the disturbed districts are not averse; and,

5th, and lastly. I have felt it my duty within the last two or three days to ascertain the mind of the Scottish members. There are seven members of Government, and one incapacitated, reducing our number for present purposes to 52. Several are not in town, but two are known to have publicly expressed themselves in favour of inquiry, viz., Mr. Dick Peddie and Mr. William Holmes. Of those to whom I have appealed, 21, including several Conservatives, have signed the memorial enclosed. Seven, though they hesitated to sign, have expressed their approval of inquiry. I have only found four decidedly hostile.

I may, therefore, assure you that a large majority of the unofficial Scottish members are favourable; and this, coupled with what I have said in the preceding four articles, should satisfy the Government no longer to delay.



For my own part, I could not have believed that so soon after the meeting at Inverness in December 1880, the agitation should have gone to such a pitch.

I am as clear as any one that the law should be upheld, yet it will be imprudent to delay till every legal point be adjusted. I fear new ones will be constantly cropping up.—Yours faithfully,

C. FRASER-MACKINTOSH.

To Sir W. Vernon Harcourt, M.P.

The Memorial, with its signatories, is as follows :—

*To the Secretary of State for the Home Department.*

We, the undersigned Scottish members of the House of Commons, while fully recognising the necessity of vindicating the authority of the law, consider that, under existing circumstances, it is most important that a Royal Commission of Inquiry into the condition of the Crofter and rural population of the Highlands and Islands of Scotland should be granted by the Government without delay.

C. FRASER-MACKINTOSH.	S. WILLIAMSON.
GEORGE ANDERSON.	FRANK HENDERSON.
CHARLES CAMERON.	R. W. COCHRAN-PATRICK.
T. R. BUCHANAN.	G. ARMITSTEAD.
G. CAMPBELL.	JOHN C. DALRYMPLE HAY.
J. STEWART.	CLAUD ALEXANDER.
ANDREW GRANT.	JAMES ALEX. CAMPBELL.
ROBERT FARQUHARSON.	ARCHIBALD ORR-EWING.
ALEX. H. GORDON.	G. BALFOUR.
J. W. BARCLAY.	S. D. WADDY.
	PETER M'LAGAN.

22nd February, 1883.

The seven members referred to in Mr. Fraser-Mackintosh's letter to Sir William Harcourt, as hesitating to sign, were, it is understood, Mr. Pender (Wick Burghs); Sir Alexander Matheson, Baronet (County of Ross); Sir Donald Currie (County of Perth); Mr. Parker (Burgh of Perth); Mr. Bolton (County of Stirling); Mr. Campbell (Ayr Burghs); and Mr. Dalrymple (County of Bute). Those distinctly opposed to any inquiry were—Sir T. E. Colbroke (County of Lanark); Sir H. Maxwell (County of Wigtown);

Mr. E. Noel (Dumfries Burghs); and Mr. Preston Bruce (County of Fife).

Lord Colin Campbell (County of Argyll) afterwards intimated that had he been asked he would have signed the Memorial to Government. None of the others were seen, as they were either out of London or absent from the House.

It will be noticed, we believe, with very general regret and surprise, that not a single Northern Member of Parliament, except Mr. Fraser-Mackintosh, had signed the Memorial. If any proof were wanted that inquiry was looked forward to by the northern landlords with disfavour, and, in some instances, with dismay—though they felt that it had now become necessary—it would be found in this significant fact. It should also have convinced the Government of the necessity of making the Royal Commission really effective, by placing men upon it who would counteract the landlord opposition and aristocratic influence, which will assuredly have to be met in the course of the inquiry, on every point where the facts are likely to tell against the landlords and their agents. The other side should have been strongly represented, so as to meet, on something like equal terms, the power, wealth, and influence, of those whose conduct throughout the country had made such an inquiry necessary. As it is, it will, unless we are much mistaken, only prove the commencement in earnest of an agitation on the Land Question, the end of which no one can predict.

Considering the stage which the question has now reached, we feel justified in reproducing what Mr. Fraser-Mackintosh, M.P., wrote to the author on 5th March 1883. Alluding to the question put to him by the writer in the Inverness Music Hall, in 1877, already referred to, he says—"I see that you put the question very broadly in 1877, and you are therefore alone entitled to the full credit of

initiating the movement." Whether that initiation will prove a credit or the reverse, the reader will not be surprised if, in the circumstances, we shall watch the proceedings of the Commission with more than ordinary interest.

The Government having resolved to grant a Royal Commission, they surely ought to have paid some deference in arranging its composition, to those who have been chiefly instrumental in impressing upon them the necessity for such a great concession. But how have they acted? They have, in the face of many and urgent recommendations from representative societies and individuals, whose position and knowledge fully entitled them to proffer advice, appointed a Commission which has been universally condemned by every Association, every individual, and by almost every newspaper throughout the country that advocated its appointment. In that condemnation, after the most full and careful consideration, and fully alive to the responsibility involved in such a step, we are compelled to join; and we do so with the greater reluctance from the high respect which we entertain for all the members of the Commission as individuals, apart from the duties which in this case they have been called upon to perform. Nothing will satisfy the public short of making the cruel evictions of the past, impossible in future in the Highlands, by giving the people a permanent interest in the soil they cultivate. That a recommendation to that effect can emanate from a Royal Commission composed as this one is, is scarcely conceivable. Nor is it to be expected that they can rise so far above the common failings of humanity as to be even anxious to procure evidence which will lead to legislation in that direction. Are Sir Kenneth Mackenzie and Lochiel, for instance, at all likely to recommend the modification of their own present rights of property, or the abolition or

material curtailment of deer forests, from which they and their class derive a great portion of their revenues? If they do so they will prove themselves more than human. But no one would complain, if their position and interests as proprietors were counterbalanced on the Commission by the presence of such true representatives of the crofters as Sir Kenneth and Lochiel are of the landlords and their class interests.

If any evidence were wanted to justify the general feeling that the Commission was one-sided and antagonistic to the interests and claims of the crofters, it would be found in the fact that its composition has been generally commended and approved by the *Scotsman*, the *Northern Chronicle*, and the *Inverness Courier*, three newspapers, whose position in the past has been one of strong and long-sustained antagonism and misrepresentation of the Highland peasantry, and, at the same time, of powerful and steady support of their oppressors and their cruel conduct.

As if the approval of these landlord organs, and the general disapproval by actual condemnation in distinct terms, or complete silence, of all the other newspapers in the country were not sufficient, we find another distinguished authority on the same side, Mr. Donald Macdonald, Tor-more—whose factorial reign in the Isle of Skye, and especially in Glendale, had so much to do in finally securing for us the Commission of Inquiry—declaring in a letter, published in the *Northern Chronicle*, and in the *Scotsman*, of the 11th April, that its composition was, in all respects, “unexceptionable”; “for,” he continues, “I am confident the result [of the Inquiry] will not only prove beneficial to my worthy, but misguided, fellow-islemen, but will also vindicate many sorely-maligned proprietors and factors from the charges made against them by untruthful outside agitators, not to speak of others, who, while personally con-

versant with local conditions, have not scrupled to throw out inferences which no view of the facts can justify”.

With a testimonial like this, and from such a quarter, it would be a pure waste of space to say another word on the composition and character of the Royal Commission to inquire into the grievances of the crofters in the Highlands and Islands, composed, as it is, of four landed proprietors, one lawyer (who is also a landed proprietor's son), and the Professor of Celtic in the University of Edinburgh, who never exhibited any special interest in, or so far as known, paid any special attention to the subject of the inquiry, and whose time, in the opinion of many of the subscribers to the Celtic Chair Fund, would have been far better and more consistently employed in the necessary preparation for the important duties of his chair.

It is to be hoped, however, that the criticism so freely heaped upon the Commissioners, from so many quarters, may result in good, and that their conduct will show, in the end, that they fully realise the responsibility imposed upon them by their position in a great crisis in the history of the Highlands. If so, that criticism will not have been altogether in vain.

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This account of the Isle of Skye during the most important period of its history for several generations in its bearing on the social state of its people and those of the Highlands generally, may be appropriately concluded by a quotation from “*St. Michael and the Preacher*, a Tale from Skye, by the Rev. Donald MacSiller, Minister of the [New] Gospel, Portree,” a satirical poem of great power, published in January last. The views expressed by the author are undoubtedly advanced, but they are quite justified by the state of affairs which we know to exist in the island, and which most assuredly will be disclosed to a still greater



extent by the Royal Commission appointed to inquire into the grievances of the Highland Crofters.

The angel, St. Michael, who visits Skye and listens to the tale of misery its people has to tell, exclaims :—

“Ye men of Skye ! ye heirs of woe :  
O'er whom great tribulations flow,  
Know that the mighty Lord designed  
This bounteous earth for all mankind ;  
That they obedient to His law  
Might from its soil their sustenance draw,  
And reap those joys which in the strife  
Make light their little round of life :  
But Landlords, by their works, have driven  
From off the earth the will of heaven :

Thus by their laws they ever stand  
The foes of those who till the land.

Preferring brutes and desolation  
To men, the bulwark of a nation !

But fear not tho' your countrymen,  
By sophistries of tongue and pen,  
Condemn ye heedlessly because  
Ye dare to dare a landlord's laws ;  
These but the men who are impressed  
With naught but what will pay them best.

O ! be ye of good cheer, the hour  
Has struck the knell of landlord power,  
And men arise with vatic eye,  
And see the dawn of new things nigh,  
And fear not to proclaim the creed—  
'The land for those who sow the seed !'  
Despair not, be united all,  
Resolved for right, to stand or fall,  
And should the factor's law-hounds come  
To drive ye from your peaceful home,  
Remember this is Freedom's token—  
'Good laws are based on bad laws broken !'  
And no great Cause is worth the name,  
Without its martyrs, bonds, and shame.

The Preacher, in reply, insists that "Law must be rigidly obeyed," when the following dialogue is continued :—

"Law !" quoth St. Michael, "Law of pelf !  
 Can man make laws to suit himself ?  
 Or is it 'Law' when want and woe  
 From individual actions flow ?  
 Methinks men do no sin when they  
 'Laws' of this nature disobey !"  
 "Hold !" quoth the Preacher, "you'll agree,  
 That landlords must perforce be free  
 To value land as they may will it,  
 Without considering those who till it ;  
 This is 'the Law' as realized,  
 And by the State is recognised,  
 Hence those who dare resist its sway  
 Are by the devil led astray."  
 St. Michael laughed, "Ay ! Ay !" quo' he,  
 "Your definition, 'Law' may be ;  
 But stay, I see in it a flaw,  
 Say, where is Justice in your 'Law' ?  
 Can Law be Law when based on Wrong ?  
 Can Law be Law when for the strong ?  
 Can Law be Law when landlords stand  
 Rack-renting mankind off the land ?  
 By 'Law' a landlord can become  
 The ghost of every Crofter's home ;  
 By 'Law' their little cots can be  
 Dark dens of dirt and misery ;  
 By 'Law' the tax upon their toil  
 Is squandered on an alien soil ;  
 By 'Law' their daughters, sons, and wives,  
 Are doomed to slavish drudgery's lives ;  
 By 'Law' Eviction's dreadful crimes  
 Are possible in Christian times ;  
 By 'Law' a spendthrift lord's intents  
 Are met by drawing higher rents ;  
 By 'Law' all food-producing glens  
 Are changed from farms to cattle pens :  
 This is your 'Law' whereby a few  
 Are shielded in the deeds they do."

SELLAR'S TRIAL.



## EDITOR'S PREFACE.

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THE original Report of Mr. Sellar's Trial, of which the following is a *verbatim* reprint, was published by Mr. Patrick Robertson, Junior Counsel for the accused, to use his own words, "from notes taken in Court, and omits nothing but the *arguments* of the Counsel, which are kept back, least it may be supposed that this publication was intended to convey anything beyond the mere facts of the case". His preface, from which we quote, Mr. Robertson might also have left out, as we do; for it is nothing less than a daring, unfounded, and general charge of "idleness," "violence," "riot," "disaffection," "unreasonable opposition to improvements," and other crimes, against a whole people, and a fulsome laudation of the cruel system which the "noble Proprietrix" and Mr. Sellar adopted "to secure their (the people's) happiness and comfort"! No other report of the Trial, unfortunately, exists, and it is to be hoped that Mr. Robertson's version of it, and the remarks thereon by Judge and Counsel, are given by Mr. Robertson as free from bias and with as great impartiality as his preface is partial and unfair. We have dealt with that curious piece of special pleading as "Mr. Sellar's Junior Counsel" has dealt with "the arguments of counsel," omitted it, lest we might throw ourselves open to the charge of conveying "anything beyond the mere facts," as they are presented to



us by Mr. Sellar's Junior Counsel in his report of his client's trial. There are, however, a few of these facts to which we shall take the liberty of directing the attention of the reader.

First—Sheriff Mackid's evidence was objected to by the Counsel for the accused, strangely departed from by the Prosecutor, and commented upon by the Judge, in a manner which would now neither be thought of nor listened to in any Court of Law in the kingdom.

Second—The letters produced and read as to character would not, under the present law of evidence, be permitted to be read, and no judge would allow the jury to know of their existence. In this instance they were not only read, but the judge dangled them before the jury as documents, "which," he said, "although not evidence, must have some weight with the jury," and that immediately after pointing out to them that the evidence led was "contradictory," and that "the tenants suffered damage" in consequence of the destruction of their barns by the accused, though, he added, "there could be no doubt of the practice in the country, of retaining these barns till the crop should be threshed out". These things *were*, no doubt, considered by the Jury, and it is right that we also should consider them before coming to a final verdict in our own minds as to the merits of the whole case.

Third—One of the pleas of the accused was, that "the ejectments were done *in order of law, and under the warrants of the proper Judge, issued on regular process*. He had brought regular actions of removing, and it was not until after he had obtained decrees in these actions *charging the whole of the tenants to remove, and taken out precepts of ejection against them, that they were, in the month of June, actually removed from their lawless and violent possession*"!

This is no doubt, accurately stated, but what does it amount to? Only this, that Mr. Sellar, in ordering, superintending, and carrying out these cruelties "*in due order of law*," was found not guilty of any *legal* crime.

Fourth—The witnesses for the defence were almost to a man, Mr. Sellar's servants on the Sutherland estates, and most of them were actually engaged in the evicting proceedings, setting fire, by their own hands, to the people's houses.

Fifth—Mr. Sellar's Counsel in his address to the Jury laid down, "That the question at issue involved the future fate and progress of agricultural and even moral improvements, in the county of Sutherland; that (though certainly not so intended by the Public Prosecutor, whose conduct throughout had been candid, correct, and liberal), it was, nevertheless in substance, and in fact, a trial of strength between the abettors of anarchy and misrule and the Magistracy, as well as the laws of this country." And this high-sounding and alarming statement was made to a Jury composed of eight landed proprietors, three or four large tacksmen or farmers, two merchants and a lawyer, nearly all of whom were Magistrates and Justices of the Peace, responsible for the maintenance of Law and order among such a people as Mr. Gordon had so eloquently maligned.

A. M.



## TRIAL OF PATRICK SELLAR.

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### THE INDICTMENT.

PATRICK SELLAR, now or lately residing at Culmaily, in the parish of Golspie, and shire of Sutherland, and under factor for the Most Noble the Marquis and Marchioness of Stafford. You are indicted and accused, at the instance of Archibald Colquhoun of Killermont, his Majesty's Advocate for his Majesty's interest: THAT ALBEIT, by the laws of this and of every other well-governed realm, CULPABLE HOMICIDE, as also OPPRESSION and REAL INJURY, more particularly the wickedly and maliciously setting on fire and burning, or causing and procuring to be set on fire and burnt, a great extent of heath and pasture, on which a number of small tenants and other poor persons maintain their cattle, to the great injury and distress of the said persons; the violently turning, or causing and procuring to be turned out of their habitations, a number of the said tenants and other poor people, especially aged, infirm, and impotent persons, and pregnant women, and cruelly depriving them of all cover or shelter, to their great distress, and the imminent danger of their lives; the wickedly and maliciously setting on fire, burning, pulling down, and demolishing, or causing and procuring to be set on fire, burnt, pulled down, and

demolishing, the dwelling-houses, barns, kilns, mills, and other buildings, lawfully occupied by the said persons, whereby they themselves are turned out, without cover or shelter, as aforesaid, and the greater part of their different crops is lost and destroyed, from the want of the usual and necessary accommodation for securing and manufacturing the same; and the wantonly setting on fire, burning, and otherwise destroying, or causing and procuring to be set on fire, burnt, and otherwise destroyed, growing corn, timber, furniture, money, and other effects, the property, or in the lawful possession of the said tenants and other poor persons, are crimes of a heinous nature, and severely punishable. YET TRUE IT IS, AND OF VERITY, that you the said Patrick Sellar are guilty of the said crimes, or of one or more of them, actor, or art 'in part: IN SO FAR as, you the said Patrick Sellar did, on the 15th day of March, 1814, or on one or other of the days of that month, or of April and May immediately following, and on many occasions during the said months of March, April, and May, wickedly and maliciously set on fire and burn, or cause and procure John Dryden and John M'Kay, both at that time shepherds in your service, to set on fire and burn a great extent of heath and pasture, many miles in length and breadth, situate in the heights of the parishes of Farr and Kildonan, in the county of Sutherland, and in particular in the lands of Ravigill, Rhiphail, Rhiloisk, Rossal, Rhimsdale, Garvault, Truderskaig, and Dalcharrel, whereby many of the tenants and others in the lands aforesaid were deprived of pasturage for their cattle, and in consequence thereof reduced to great distress and poverty; and many of them were obliged to feed their cattle with the potatoes intended for the use of their families, and with their seed corn; particularly William Gordon, James M'Kay, Hugh



Grant, and Donald M'Kay, all then tenants in Rhiloisk aforesaid; John Gordon and Hugh M'Beath, then tenants in Rhimsdale aforesaid; Donald M'Beath, then tenant in Rhiphail aforesaid; Murdo M'Kay and John M'Kay, then tenants in Truderskaig aforesaid. AND FURTHER, you the said Patrick Sellar did, upon the 13th day of June, 1814, or on one or other of the days of that month, or of May immediately preceding, or of July immediately following, together with four or more persons, your assistants, proceed to the district of country above-mentioned, and did, then and there, violently turn, or cause or procure to be turned out of their habitations, a number of the tenants and poor people dwelling there; and particularly Donald M'Kay, a feeble old man of the age of four-score years or thereby, then residing in Rhiloisk aforesaid; who, upon being so turned out, not being able to travel to the nearest inhabited place, lay for several days and nights thereafter in the woods in the vicinity, without cover or shelter, to his great distress, and to the danger of his life. As also, Barbara M'Kay, wife of John M'Kay, then tenant in Ravigill aforesaid, who was at the time pregnant, and was moreover confined to her bed in consequence of being severely hurt and bruised by a fall; and you the said Patrick Sellar did, then and there, notwithstanding the entreaties of the said John M'Kay, give orders that the said Barbara M'Kay should be instantly turned out, whatever the consequence might be, saying, That you would have the house pulled about her ears; and the said John M'Kay was accordingly compelled, with the assistance of some women and neighbours, to lift his said wife from her bed, and carry her nearly a mile across the country, to the imminent danger of her life: As also, time last above-mentioned, you the said Patrick Sellar did forcibly turn out, or cause and procure your assistants aforesaid, to

turn out, of his bed and dwelling, in Garvault aforesaid, Donald Monro, a young lad, who lay sick in bed at the time. AND FURTHER, you the said Patrick Sellar did, time aforesaid, wickedly and maliciously set on fire, burn, pull down, and demolish, or cause and procure your assistants aforesaid to set on fire, burn, pull down, and demolish, a great number of the dwelling-houses, barns, kilns, mills, and other buildings, lawfully occupied by the tenants and other inhabitants in the said district of country; and in particular, the houses, barns, kilns, mills, lawfully occupied by the above-mentioned William Gordon, James M'Kay, Hugh Grant, in Rhiloisk aforesaid, and John Gordon in Rhimsdale aforesaid; As also, the barns and kilns in Rhi-phail aforesaid, lawfully occupied by Alexander Manson, John M'Kay, and others, then tenants or residents there; the barns and kilns in Ravigill aforesaid, lawfully occupied by John M'Kay, Murdo M'Kay, and others, then tenants there; and the barns and kilns in Garvault aforesaid, lawfully occupied by William Nicol and John Monro, then tenants there: As also, the house and barn in Ravigill aforesaid, lawfully occupied by Barbara M'Kay, an infirm old widow, nearly fourscore years of age, and who was obliged to sell three of her five cattle at an under value, in order to support herself, her crop being destroyed from the want of her barn: As also, the greater part of the houses, barns, kilns, mills, and other buildings in the whole district of country above mentioned, was, time aforesaid, maliciously set on fire, burnt, pulled down, and demolished, by you, the said Patrick Sellar, or by your assistance, or by your orders, whereby the inhabitants and lawful occupiers thereof were turned out, without cover or shelter; and the greater part of their different crops was lost and destroyed from want of the usual and necessary accommodation for

securing and manufacturing the same; and especially the lawful occupiers of the barns, kilns, mills, and other buildings particularly above mentioned, to have been set on fire and destroyed as aforesaid, did sustain great loss in their crops, from being thus deprived of the means of securing and manufacturing the same. AND FURTHER, you, the said Patrick Sellar, did, time aforesaid, culpably kill Donald M'Beath, father to Hugh M'Beath, then tenant in Rhimsdale aforesaid, by unroofing and pulling down, or causing to be unroofed and pulled down, the whole house in Rhimsdale aforesaid, where the said Donald M'Beath was then lying on his sick-bed, saving only a small space of roof, to the extent of five or six yards, whereby the said Donald M'Beath was exposed, in a cold and comfortless situation, without cover or shelter, to the weather; and he, the said Donald M'Beath, in consequence of being so exposed, never spoke a word more, but languished and died about eight days thereafter, and was thereby culpably killed by you, the said Patrick Sellar: Or otherwise, you, the said Patrick Sellar, did, time and place foresaid, cruelly expose the said Donald M'Beath to the weather, without cover or shelter, by pulling down and unroofing, or caused to be pulled down and unroofed, the greater part of the house where he then lay sick in bed, to his great distress, and the imminent danger of his life; and this you, the said Patrick Sellar, did, notwithstanding the entreaties of the said Hugh M'Beath and others, you saying, in a rage, when it was proposed that the said Donald M'Beath should remain, "The devil a man of them, sick or well, shall be permitted to remain," or words to that effect. AND FURTHER, you, the said Patrick Sellar, did, time aforesaid, wickedly and maliciously set on fire, burn and demolish, or cause and procure your assistants to set on fire, burn and demolish the dwelling-house, barn, kiln, sheep-cot,

and other buildings, then lawfully occupied by William Chisholm in Badinloskin, in the parish of Farr aforesaid, although you knew that Margaret M'Kay, a very old woman of the age of 90 years, less or more, and who had been bed-ridden for years, was at that time within the said house; and this you did, notwithstanding you were told that the said old woman could not be removed without imminent danger to her life; and the flames having approached the bed whereon the said Margaret M'Kay lay, she shrieked aloud in Gaelic, "O'n teine," that is to say, "O the fire," or words to that effect; and was forthwith carried out by her daughter, Janet M'Kay, and placed in a small bothy, and the blanket in which she was wrapped was burnt in several places; and the said Margaret M'Kay never spoke a word thereafter, but remained insensible from that hour, and died in about five days thereafter, in consequence of the fright and alarm; and, in particular, in consequence of her removal, as aforesaid, from her bed into a cold and uncomfortable place, unfit for the habitation of any human being; and the said Margaret M'Kay was thereby culpably killed by you, the said Patrick Sellar; or otherwise, you, the said Patrick Sellar, did, time and place foresaid, cruelly turn, or cause to be turned, out of her bed and dwelling-place, the said Margaret M'Kay, by setting on fire, burning, and demolishing, or causing and procuring to be set on fire, burnt, and demolished, the said house and other buildings, in manner above mentioned, to her great distress, and the imminent danger of her life. AND FARTHER, all the persons whose houses, barns, kilns, mills, and other buildings, were burnt and destroyed, or caused and procured to be burnt and destroyed, by you, the said Patrick Sellar, all as above described, did sustain great loss in their moss wood, and other timber, which was broken and demolished, and de-

stroyed by fire and otherwise, at the same time, and in the same manner, with the buildings as aforesaid ; and also in their furniture and other effects, all their lawful property, or in their lawful possession at the time : And, in particular, the said Barbara M'Kay in Ravigill, aforesaid, lost her door and door-posts, and timber of her house and barn, her meal-chest, and several articles of furniture, all her property, or in her lawful possession, which were then and there destroyed, or caused to be destroyed, by you, the said Patrick Sellar, as aforesaid ; and the greatest part of the furniture and timber belonging to the said William Chisholm, together with three pounds in bank notes, and a ridge of growing corn, all the property, or in the lawful possession of the said William Chisholm, in Badinloskin aforesaid, were then and there destroyed by fire, and otherwise, by you, the said Patrick Sellar. And you, the said Patrick Sellar, having been apprehended and taken before Mr. Robert Mackid, Sheriff-Substitute of Sutherland, did, in his presence, at Dornoch, on the 31st day of May, 1815, emit and subscribe a declaration ; which declaration, together with a paper, entitled " Notice given to the Strathnaver tenants, 15 Dec., 1813," being to be used in evidence against you, at your trial, will be lodged in due time in the hands of the Clerk of the Circuit Court of Justiciary, before which you are to be tried, that you may have an opportunity of seeing the same : AT LEAST, time and places above-mentioned, the said heath and pasure was wickedly and maliciously set on fire and burnt, or caused and procured to be set on fire and burnt, to the great injury and distress of the said tenants and others ; and the said persons were violently turned, or caused and procured to be turned, out of their habitations, and deprived of all cover and shelter, to their great distress, and the imminent danger of their lives ; and the said



Donald M'Beath and Margaret M'Kay were culpably killed in manner above mentioned, or were cruelly turned out of their habitations as aforesaid; and the said dwelling-houses, barns, kilns, mills, and other buildings, lawfully inhabited and occupied by the said persons, were maliciously set on fire, burnt, pulled down, and demolished, or were caused and procured to be set on fire, burnt, pulled down, and demolished, and the inhabitants and lawful occupiers thereof turned out as aforesaid; and the greater part of their different crops was lost or destroyed, from want of the usual and necessary accommodation for securing and manufacturing the same; and the growing corn, timber, furniture, money, and other effects, the property, or in the lawful possession, of the said persons, were wontonly set on fire, burnt, and otherwise destroyed, or caused and procured to be set on fire, burnt, and otherwise destroyed: And you, the said Patrick Sellar, are guilty of the said crimes, or of one or more of them, actor, or art and part. ALL WHICH, or part thereof, being found proven by the verdict of an assize, before the Lord Justice-General, the Lord Justice-Clerk, and Lords Commissioners of Justiciary, in a Circuit Court of Justiciary to be holden by them, or by any one or more of their number, within the burgh of Inverness, in the month of April, in this present year, 1816, you, the said Patrick Sellar, OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

H. HOME DRUMMOND, *A. D.*

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MR. SELLAR having pleaded NOT GUILTY, the following defences were read:—"1<sup>st</sup>, The panel objects to the relevancy of various parts of the libel.—2<sup>nd</sup>, In so far as

the libel is relevant, the panel denies its truth; the whole of the charges are utterly false, in so much so, that the Prosecutor is not only unable to bring any sufficient evidence in support of his own accusations, but the panel will bring positive proof *against* them. The panel will prove, that the ejectments which have given rise to this trial, were done in due order of law, and, under the warrants of the proper Judge, issued on regular process. Farther, he will prove, that great indulgence was shown to the tenants, even after they had resisted the regular decrees of the Judge; that nothing was done on his part, or with his knowledge or approval, either cruel, oppressive, or illegal: That he committed no acts of homicide; and, on the whole, he will prove, that throughout every part of this affair, he (the panel) has been the victim, not only of the most unfounded local prejudices, but of long continued and active defamation, on the part of certain persons, who have made it their business to traduce the whole system of improvements introduced into the Sutherland estate, and to vilify the panel, by whom, they have been pleased to suppose, that these improvements have been partly conducted. He rejoices, however, in the first opportunity, which has now been afforded to him, of meeting these calumnies and prepossessions in a Court of Justice, and relying, as he does, with implicit confidence on the candour and dispassionate attention of a British Jury, he has no doubt whatever of being able to establish his complete innocence of all the charges now brought against him.

*“Under protestation to add and eik.*

“J. GORDON.

“H. COCKBURN.

“PAT. ROBERTSON.”

MR. ROBERTSON opened the case on the part of the panel. The object of addressing the court at this time was to state such observations as occurred on the relevancy of the indictment, and to give a general view of the line of defence. On the former, he remarked, that various objections did occur to the relevancy of the charges, particularly to the second and fourth branches of the indictment. With these, however, he did not mean to trouble the Court, as Mr. Sellar was so conscious of his innocence, that he courted investigation, being unwilling that any part of his conduct should be left uninvestigated. No objection was, therefore, made to the relevancy of any part of the indictment, so far as it charged any specific crime against which the panel might be prepared to defend himself. But, certainly, he did object to those parts of it which contained general charges, of destroying "a number of houses," injuring "a number of tenants," &c., unless these were understood merely as introductory to the specific crimes mentioned. He also objected to the last charge, if meant as anything more than matter of mere aggravation.

On the merits, he gave a short sketch of the causes which gave rise to the present trial,—alluded to the clamour which had been raised in the country—the prejudices of the people,—the disgraceful publications in a newspaper called the *Military Register*, and the pains which had been taken to circulate these false and mischievous papers through Sutherland and the adjacent counties. The general line of defence he stated to be, That, as to the 1st charge, of heath-burning, this was done with the express consent of the tenantry, and, as could be proved, to their positive advantage. As to the removings, the defence was quite clear. The lands mentioned in the indictment were advertised to be set on the 5th of December, 1813, at the Inn of Golspie,

and Mr. Sellar was preferred as the highest offerer. Before Whitsunday, 1814, he brought regular actions of removing, and it was not until after he had obtained decrees in these actions, charged the whole of the tenants to remove, and taken out precepts of ejection against them, that they were, in the month of June, actually removed from their lawless and violent possession. These facts were established by the decrees and precepts in the hands of the Clerk of Court. As to the demolition of the houses, no houses were pulled down till after the ejections had been completed, and the property had become Mr. Sellar's. No furniture was destroyed by him, or by his orders,—no unnecessary violence was used, nor any cruelty exercised, but everything was done in due order of law, and without oppression of any kind. The charges of culpable homicide were quite out of the question, and Mr. Sellar defied the Public Prosecutor to prove them. Upon the whole, it was not doubted, that if truth and justice were to prevail over malice and conspiracy, Mr. Sellar would obtain an honourable and triumphant acquittal.

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THE Advocate-Deputé having here stated that he did not mean to insist on any charges, excepting those which were specially and articulately mentioned in the indictment, Lord Pitmilley said :—

“It would be improper for me to enter at present into the origin of the prosecution, or the nature of the defences. Neither shall I say anything of the publications which have been alluded to, except that they appear to be of the most contemptible nature, and the only prejudice which I can entertain is the other way; that is, against the cause requiring such aid. I have no doubt as to the relevancy of the libel.”

The Jury was composed of the following gentlemen :—

James Fraser, of Belladrum.  
William Fraser, of Culbockie.  
William Mackintosh, of Balnespock.  
Duncan Fraser, of Fingask.  
Alexander Smith, merchant in Inverness.  
John Gillanders, of Highfield.  
William Reid, of Muirtown.  
William Mackenzie, of Strathgarve.  
George Falconer Mackenzie, of Allangrange.  
Robert Denham, tacksman of Dunglass.  
George Kay, residing at Tannachy.  
Baillie Robert Joss, merchant in Elgin.  
John Barclay, writer, Elgin.  
John Collie, farmer at Alvas.  
John Smith, tacksman of Greens.

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### THE FOLLOWING EVIDENCE WAS LED FOR THE CROWN.

THE first witness proposed to be adduced was—

Mr. Robert M'Kid, Sheriff-Substitute of Sutherland, to whom it was OBJECTED, That the proposed witness has evinced malice or partial council, or both, against the panel, in so far as he imprisoned him, without a complainer, upon an illegal warrant, which the Court of Justiciary quashed *ex facie* of itself,—refused bail,—struck him off from the roll of procurators without a complainer, a trial, or any previous notice,—and afterwards wrote an inflammatory and false statement of the pretended circumstances of this case to the Marquis of Stafford, and stated to various



persons, that the panel ought to be hanged—that Botany Bay was too good for him ; and that they, though willing to find bail for him, ought to have nothing to do with him.

ANSWERED by the Advocate-Depute : That if it be true that the panel was imprisoned without a regular complaint, it was only an irregularity in the proceedings ; and that the Court of Justiciary stated, in their finding on the petition for liberation, irregularity as a ground for allowing bail : That the prisoner was committed for a capital offence ; and but for their irregularity in point of form, he could not have been bailed : That the mere circumstance of the panel being struck off the roll of procurators, if true, is no ground of malice, and may have been justified in the circumstances of the case : That the relevancy of the statement sent to the Marquis of Stafford, must depend on the expressions it contains, of which the prosecutor is totally ignorant : That the expressions condescended upon, do not infer such deadly malice as to render the witness inadmissible : That the only point on which the prosecutor proposes to examine Mr. M'Kid, is as to the practice of Sutherland, with respect to the rights of out-going tenants, to retain possession of their barns until the term of removal from the arable ground, as to which he conceives him the fittest person to speak as Judge Ordinary of the bounds.

The Court having allowed a proof of the objections ;

Mr. M'Kid himself was examined *in initialibus*. Witness has no malice, or ill-will against Mr. Sellar ; remembers that he imprisoned that gentleman in the jail of Dornoch ; the warrant proceeded on a petition from the tenants of Strathnaver to Lord Gower, transmitted to witness by his Lordship ; there was no other complaint to witness personally, before the warrant was granted. Witness refused to grant bail, as Mr. Sellar was imprisoned for a capital crime. Witness remembers having taken a precognition in Mr. Sellar's case ; he had not the assistance of the Procurator-Fiscal, as at the time that gentle-

man was from home. Witness removed Mr. Sellar from his office of procurator before his own Court, without any complaint being made against him. Witness never said that Mr. Sellar ought to go to Botany Bay, or be hanged, or that this would be the case ; he never said to Mr. Young, Lady Stafford's commissioner, that that gentlemen should have nothing to do with Mr. Sellar ; Mr. Young never offered to give bail. Witness wrote a letter to Lord Stafford, in regard to the crimes of which Mr. Sellar was accused, after the precognition ; and which letter being shewn to the witness, was identified. Witness never said, at least has no recollection of saying to Mr. Ross, that if he could, he would ruin Mr. Sellar ; he has seen the Military Register, but has no connection with the paragraphs in that paper, relative to Mr. Sellar ; he has seen the Crown Agent's letter to the Minister of Farr ; the publishers of the Register did not get a copy of it from the witness. Cross-examined—Witness wrote to Mr. Cranstoun, the Sheriff-Depute, on the 8th of May, 1815, when he committed Mr. Sellar. The letter was then read, as follows :—

#### TO LORD STAFFORD.

KIRKTOWN P. GOLSPIE, *30th May, 1815.*

MY LORD,—I conceive it a duty I owe to your Lordship, to address you upon the present occasion, and a more distressing task I have seldom had to perform.

Your Lordship knows, that in summer last, an humble petition, subscribed by a number of tenants on Mr. Sellar's sheep farm in Farr and Kildonan, was presented to Lady Stafford, complaining of various acts of injury, cruelty, and oppression, alleged to have been committed upon their persons and property, by Mr. Sellar, in the spring and summer of that year.

To this complaint, her Ladyship, upon the 22nd of July last, was graciously pleased to return an answer in writing. In it, her Ladyship, with her usual candour and justice, with much propriety observes, "That if any person on the estate shall receive any illegal treatment, she will never consider it as hostile to her, if they have recourse to legal redress, as the most secure way to receive the justice which she always desires they should have on every occasion". Her Ladyship also intimates, "That she had communicated the complaint to Mr. Sellar, that he may make proper enquiry and answer to her".

It would appear, however, that Mr. Sellar still refused, or delayed to afford that redress to the removed tenants, to which they conceived

themselves entitled, which emboldened them to approach Earl Gower with a complaint, similar to the one they had presented to Lady Stafford.

To this complaint his Lordship graciously condescended, under date 8th February last, to return such an answer as might have been expected from his Lordship. His Lordship says, that he has communicated the contents to your Lordship and Lady Stafford, who, as his Lordship nobly expresses himself, "are desirous, that the tenants should know, that it is always their wish that justice should be impartially administered". His Lordship then adds, that he has sent the petition, with directions to Mr. Young, that proper steps should be taken for laying the business before the Sheriff-Depute; and that the petitioners would therefore be assisted by Mr. Young, if they desired it, in having the precognition taken before the Sheriff-Depute, according to their petition.

Soon after receipt of Earl Gower's letter, it would appear that a copy of the petition, with his Lordship's answer, had been transmitted to the Sheriff-Depute by the tenants. Mr. Cranstoun, in answer, upon 30th March last, says, "that if the tenants mean to take a precognition *immediately*, it will proceed before the Sheriff-Substitute, as my engagements will not permit me to be in Sutherland until the month of July."

In consequence of these proceedings, of an express injunction from his Majesty's Advocate-Depute, and a similar one from the Sheriff-Depute, I was compelled to enter upon an investigation of the complaints.

With this view I was induced to go into Strathnaver, where, at considerable personal inconvenience and expense, and with much patient perseverance, I examined about *forty* evidences upon the allegations stated in the tenants' petition; and it is with the deepest regret I have to inform your Lordship, that a more numerous catalogue of crimes, perpetrated by an individual, has seldom disgraced any country, or sullied the pages of a precognition in Scotland!!!

This being the case, the laws of the country imperiously call upon me to order Mr. Sellar to be arrested and incarcerated, in order for trial, and before this reaches your Lordship, this preparatory legal step must be put in execution.

No person can more sincerely regret the cause nor more feelingly lament the effect, than I do; but your Lordship knows well, and as Earl Gower very properly observed, "Justice should be impartially administered".

I have, in confidence, stated verbally to Mr. Young *my fears* upon this distressing subject, and I now take the liberty of stating my sentiments also to your Lordship, *in confidence*.

The crimes of which Mr. Sellar stands accused, are :—

1. Wilful fire-raising ; by having set on fire, and reduced to ashes a poor man's whole premises, including dwelling-house, barn, kiln, and sheep cot, attended with most aggravated circumstances of cruelty, *if not murder!!!*

2. Throwing down and demolishing a *mill*, also a capital crime.

3. Setting fire to and burning the tenant's heath pasture, before the legal term of removal.

4. Throwing down and demolishing houses, whereby the lives of sundry *aged* and *bed-ridden* persons were endangered, if not *actually lost!*

5. Throwing down and demolishing barns, kilns, sheep cots, &c., to the great hurt and prejudice of the owners.

6. Innumerable other charges of lesser importance swell the list.

I subjoin a copy of Mr. Cranstoun's last letter to me upon this subject, for your lordship's information, and have the honour to be, &c.

(Signed) ROBT. M'KID.

#### (LETTER SUBJOINED.)

“EDINBURGH, 13<sup>th</sup> May, 1815.

“I am extremely sorry that you have so disagreeable a duty to perform, and would willingly have relieved you of it, if the commencement of the Session had not rendered my presence in Edinburgh indispensable. I feel the embarrassing nature of your situation, but am confident that you will extricate yourself with your usual ability and good sense.

“Proceed with the precognition, then take Sellar's declaration, and if there is ground for a criminal proceeding, commit afterwards,” &c., &c.

The following witnesses were then called in further evidence of the objections.

1st, Mr. Hugh Ross, was Procurator-Fiscal for Sutherland in 1815; knows Mr. M'Kid; conversed with him in July, 1813, about Mr. Sellar; M'Kid repeatedly said, or the witness inferred, that he should be happy to have it in his power to injure Mr. Sellar if he could; witness warned Mr. Sellar of this. Cross examined.—Cannot swear to the specific

words ; cannot mention the species of injury intended. Witness had never any dispute or difference with M'Kid.

2nd, William Young, Esq. Witness remembers when Mr. Sellar was imprisoned ; went to Mr. M'Kid to offer bail ; M'Kid refused, and said the crime was not bailable ; was advised by him to have as little to do with Mr. Sellar as possible. Witness asked him his opinion as to what would happen to Mr. Sellar, to which Mr. M'Kid answered, I am sorry to say, if he is not hanged, he will certainly go to Botany Bay.

Mr. Cockburn then addressed the Court very forcibly in support of the objection ; Mr. Drummond answered, and Mr. Gordon replied. Lord Pitmilley went over the grounds of objection, and the Court pronounced the following interlocutor :—" Lord Pitmilley having heard the evidence in support of the objection, and having likewise heard the counsel for the parties on the import thereof, repels the objection, and allows the evidence of Robert M'Kid to be taken *cum nota*, recommending it, however, to the Advocate-Depute to pass from the evidence of the witness in the circumstances of the case."

The Advocate-Depute, in respect of the recommendation of the Court, then declared that he passed from the evidence of Mr. M'Kid.

Mr. Ross, Sheriff-Substitute of Ross-shire, was then sworn as interpreter, many of the witnesses being unable to speak English, and the following persons were adduced.

3rd, William Chisholm, residing in Badinloskin, sworn and examined on the part of the panel *in initialibus*. Witness promised, two years ago, to contribute part of the legal expenses to be incurred in bringing Mr. Sellar before the Circuit Court, or the Criminal Court in Edinburgh. Witness's wife, Henrietta M'Kay, also promised to contribute. Examined *in causa*, on the part of the Crown : Witness remembers, that in June, 1814, Mr. Sellar, in company with 20 men, besides four Sheriff-officers, came to Badinloskin, pulled down, and set on fire the house and barns ; some corn was also burnt, and three twenty-shilling notes were consumed. This happened a little after ten on a Monday morning. Witness's mother-in-law was in the midst of the fire, and no person would dare to take her out till his sister-in-law, Janet M'Kay came. His mother-in-law was 100 years old, and confined to bed from her age, but was not sickly. Sellar did not come up till about an hour after the arrival of the officers, and when he arrived, witness heard him desire the tenants to carry the old woman out to a sheep cot. Witness speaks no English, but understands it a little. The house was not set



on fire till Sellar came up, and he gave instructions to put fire to it immediately. Sellar himself was active in putting sticks on the fire. One of the men, George M'Leod, was ordered by Sellar to take out the old woman; but he said he would not attempt it, even though they should take off his coat, as he would not be accessory to murder. Sellar desired the woman to be taken out, although she should not live one hour after. It was in about two minutes after this that witness's sister-in-law came and took out the old woman. The blankets in which she was wrapt were burnt, and the bed was going on fire before she was taken out. She said, "God receive my soul; what fire is this about me?" and never spoke a word more. At the time she said this she was in bed; lived till the following Sunday, till which time she remained insensible. Before this period she was sensible enough, and could speak rationally. After she was taken out, the bed and clothes were burnt. She was carried to a small sheep cot, covered with turf. It had no door or window, was 6 feet in length, and 5 in width; could only hold a small horse. The woman was not personally injured by the fire, but the alarm and removal caused her death. The three notes, which were lost, and one shilling, were in a chest, of which witness's wife had the key; she was not at home at this time, but returned in the evening. Interrogated, Why they did not remove the furniture and woman in the hour that intervened before Mr. Sellar came? Witness answered, because he was prevailed on not to do so, in expectation that Mr. Sellar would not remove them when he came. The furniture was burned, and the growing corn, which was destroyed, was in extent equal to what would have been 12 sheaves in harvest, and the fire was communicated to it from the house. There was wind, and it burned with extreme vehemence. The timber of the house, being of moss fir, belonged to the witness. The wood was thrown down before it was set fire to, and Sellar said, "There's a bonfire for you". By the practice of the country, the outgoing tenant is entitled to carry away the timber belonging to the house, unless the incoming tenant pays for it. Immediately after the fire, Mr. Sellar gave witness three shillings, but £20 would not have been sufficient compensation. Sellar did not tell him that this money was given for the wood. Robert M'Donald also gave him other three shillings from Mr. Sellar, as he said, for the timber, which witness took, saying it was no compensation—the wood and workmanship of the house, independent of the furniture, was worth £20. The house was made of feal and stone. The kiln was not burnt, nor the sheep cot. The kiln was 100 yards from the house, but the house, barn, and byre, were close to each other; there were altogether

sixteen couples in the house and byre, which were under the same roof. Witness has lived there nine years against next Whitsunday. He took the house from Mr. Falconer, then Lady Sutherland's factor, and at first paid a rent of five shillings, but latterly he paid five guineas. He held of the sub-tenants, and the five guineas were paid to James Gordon, who collected for behoof of the rest. Cross-examined—Witness was first a smith, then a tinker. The £3 belonged to the old woman, and was intended to buy whisky to be used at her interment. The chest was usually locked, his wife had the key, and some money of hers was in the chest. Witness and some of his neighbours saw the money that day, before his wife went from home, which was about seven o'clock in the morning, on the Sunday before Sellar intimated that witness would be ejected; and it was about six o'clock of the morning of the ejection that he went to see that the money was in the chest, in case it should be destroyed by the fire, which he expected.

4th, Henrietta M'Kay, wife of the preceding witness, left Badinloskin early in the morning of the ejection from that place, and returned a little after 12 o'clock noon; when she came within a mile's distance of the house, saw it going on fire, and she fell down, being afraid that her mother was burnt. She was very weak and came slowly home, and said she would complain of nothing if no lives were lost. One of the children met her, and told her that her mother was alive. She found her mother speechless in a small house, without a door; part of the roof of which was spoiled. The house was not a sheep cot, but kept for a small horse. Her mother never spoke to her, and died on Saturday thereafter, the fifth day, in the same small house. The blanket in which she had been wrapt was burnt in two or three places. She was weak and sickly, but spoke to those about her that morning before witness left her, and was 92 years of age. The chief part of the furniture had been removed; no chest whatever was burnt. There were three pounds in the house, but whether they were burnt or taken away, the witness knows not. These three notes were deposited by her six weeks before in a hole in the wall, and there was a shilling, which had been picked up by one of the hens. Witness never looked whether the three pounds remained, as she was under no apprehension about it, no person knowing it was there. She had no key that day, and there was no lock or key for any chest in the house.

5th, John M'Kay, in Achafrish of Rossal, remembers going to Badinloskin, a little past 11 o'clock on the day of the ejection; Sellar came up a little past 12 o'clock; the officers having been there before him,

but after the witness ; he had no watch. Witness came there, being told by Mr. Sellar, at Auchness meeting-house, to meet him there, for the purpose of removing William Chisholm, and that one out of every house of the tenants of Rossal must come. Witness said there was a woman lying sick in the house who could not be removed, Sellar said that she must be taken away. Witness saw the old woman next day, and her daughter speaking to her, before the ejection, but the old woman could make no answer ; witness did not know what her daughter said, but she asked her something or another ; this was before Sellar came. He heard the sound of her voice, when they were taking her out ; she said, "O teine," or "O the fire !" Mr. Sellar and John Burns came together, and the tenants of Rossal met them at a small house near Chisholm's, where they remained in conversation for a good while. The tenants were for keeping the house whole, but Sellar sent for the officer, and said, "put fire to the house immediately". Fire was put not long after, and then the woman's daughter brought her out ; the house was burning before the woman was brought out. There was a heck lying near the house, and Sellar said, there is a nice thing for carrying out the woman ; but they were not for meddling with her at all, as she was so low in body. This conversation about the heck took place before the fire was actually put to the house, but after it was ordered. The house to which the woman was removed was a small place, not fit for a person to live in. Cross examined—The officers came after eleven o'clock, and were there about an hour before Sellar arrived ; there was a byre adjoining to the house, and under the same roof, and Margaret M'Kay was in the byre when the witness came, and it was from the byre that the woman was removed. There was no calf in the byre ; witness was there almost half-an-hour before the men had arrived ; he was in the house, and saw the woman lying in bed in the byre. Witness is a tenant of Mr. Sellar, but has been warned out. Sellar was about 50 yards distant when he ordered the house to be set fire to ; Margaret M'Kay was quite sensible before the ejection ; she used to lie in the other end of the house, but had been removed to the byre. There was a fire in the byre, but no fire-place. By the Court—On the Monday before, and before orders were given to put fire to the house, witness and most of the tenants remonstrated against the removal of the old woman ; but Sellar said she must go. Witness does not know whether any furniture was destroyed, but saw a ridge of growing corn, about two inches in height, blackened.

6th, Hugh M'Beath, at Kenakyle. Witness remembers that some heather, belonging to him, was burnt by John M'Kay, Mr. Sellar's

shepherd, and another man ; but he was not present, being at his mother's funeral ; he saw no houses burnt. It is the practice in Sutherland for the outgoing tenant to retain his barns till he shall thresh out his crop. Witness had one barn ; his farm was Rhimsdale. Witness's father died about ten days after the houses were pulled down ; his father was in a corner of the house, and was left there till he died ; the whole house was taken down, except a small space above his father's bed. Witness began to pull down the house himself, hearing that the party were pulling down the other houses, and destroying the wood. Witness took off the divots, and left the couples and the side trees standing, as he was obliged to go away to his good-mother's burial, and did not return for four days. On his return he found the couples cut with an axe, and his father in the house. There was a clay partition standing between his father and the weather, but this was not entire, and the wind was coming in. Witness cannot say that this occasioned the state in which he found his father ; witness went to Langdale on the Saturday, before the houses were pulled down, to request, that Mr. Sellar would allow his father to remain as he was weak and lying ill in bed. Mr. Sellar refused, and said that they must remove by Tuesday or Wednesday well or ill. His words were, "De'il a ane of them shall remain". Witness's father-in-law said to Sellar, "That is rather cruel" ; to which he rejoined, "It's no business of yours". Sellar then asked his name, and put it down in his pocket-book, to look after him. Cross-examined—Did not see Sellar when they were pulling down the house. Witness's father was in bed long before this, as he had a large sore on his eye, which had begun five years before.

7th, George Ross, in Skelpick, saw Barbara M'Kay's house pulled down, but does not know whether she had a barn ; knows nothing about her cattle ; the house was pulled down by the Sheriff-officer and party.

8th, James M'Kay, in Skale, knows Donald M'Kay in Rhiloisk, who was turned out of, or left his house, in June, 1814 ; saw him sitting or lying in the woods sometime after this. There was no house in which he could find shelter, as they were all pulled down, except the one occupied by Mr. Sellar's shepherd. Witness proposed to take Donald to his house, but he gave him no answer. Donald was infirm before this, by reason of old age. There were houses on the other side of the river Naver, but witness does not know if Donald M'Kay was able to go over. The nearest house was about an English mile distant,



but witness does not know whether the man could go or not. Witness's furniture had not been carried off that day, but lay in front of the house ; he does not know whether Donald M'Kay was turned out or not. Witness had a barn which was broken down ; he was told that it was done by Sellar's party, but he did not see this done ; he lost part of his crop from the want of his barn, but he does not know how much ; the greatest part was threshed in the open air, and part of it was destroyed by cattle. There was only one barn left for the three tenants in Skale, and they had not room in the barn. William Gordon and Hugh Grant also sustained loss for want of their barns. There was a kiln also pulled down, but witness did not see this done ; the kiln was common to all the tenants ; considerable inconvenience arose from the want of it ; they were obliged to carry their grain over the river to a kiln on the other side. Gordon had two barns ; one was pulled down — one was allowed to stand. The outgoing tenant, by the custom of the country, had the use of the kiln and barn till he manufactured his waygoing crop. Cross-examined—The quantity of land in Skale belonging to the witness, was adequate to the sowing of three bolls of black oats, half a boll of barley, and a portion of potatoes ; the rent was 30s. ; William Gordon had more crop ; tenants were thirled to the mill of Langdale.

9th, William Gordon, in Bettyhill ; three of his barns were destroyed in June, 1814 ; witness thereby suffered damage. By the custom of the country, the outgoing tenant keeps the barns till he threshes out his crop, except the hay barn. The loss sustained by the witness was occasioned by the want of his barns, and by the neighbours using the one that was left ; there was only one barn left to five tenants ; witness was at a distance in Caithness ; witness's crop was damaged by sheep breaking into his yard. Cross-examined—The tenants in Bettyhill were thirled to the mill of Langdale, and had nearly as much meal in the year 1814 as in any other year. Witness paid about that time nearly £5 of rent, and the other tenants about £2 10s. ; the new allotments were ready for the people some days before the ejections took place, and the tenants were to be allowed to remain till the allotments were ready.

10th, John Gordon, at Skelpick, examined *in initialibus* on the part of the panel. Witness subscribed to bring Mr. Sellar to trial ; was collector at a meeting assembled to carry on the subscription, and every body there paid something. Money was paid into the hands of the witness ; he spent it in going to Caithness to employ Mr. Henderson, a man of business, for the purpose of prosecuting Mr. Sellar. Examined



*in causa* for the Crown : The barns in Rhimsdale were pulled down ; only one barn was left ; it is not the custom to remove the outgoing tenant from the barns ; Mr. Sellar and his party destroyed them. Sellar said he would give the people time to cut down the roofs, so that the wood might be of more use to them. Witness lost the whole of his crop. It is the custom to build the corn in small ricks and enclose it in a yard. The sheep destroyed the corn, the fence being taken down by the shepherds for fire wood, and thus the sheep got in ; the straw belonged to Mr. Sellar as incoming tenant.

11th, Alexander Manson, in Skale ; witness knows that it is the custom for the tenants in Sutherland to keep their barns till their crop be manufactured. He knows that some of the barns in Rhiphail were destroyed by Mr. Sellar's orders and by his party ; he had some conversation with him about the barns, and Sellar said that they were his own, and he might do with them what he pleased. According to the rule of the country, the tenants put their furniture into the barns, but this was ordered out by Mr. Sellar. Witness had no barn in Rhiphail. There were nine tenants in Rhiphail and nine barns, three of these barns were left and six were taken down. There was land in this place equal to bear about 24 bolls sowing ; the tenants suffered loss in their crop, from the want of their barns ; the sheep injured it ; the crop would have been in the barns, if they had not been taken down.

12th, John M'Kay, in Rhinovie, examined *in initialibus*. He never subscribed any money for the purpose of prosecuting Mr. Sellar, but he collected some, and went into Caithness for the purpose of soliciting subscriptions. He does not remember hearing any part of the Military Register read to him, but knows that a letter was sent to Mr. Cranstoun, requesting that he would bring Mr. Sellar to justice. This witness having been objected to, on the ground of undue and busy interference and agency ; Lord Pitmilley said, No agency has been proved, and no prosecution has taken place in consequence of the subscription which had been raised ; I therefore cannot reject this witness as inadmissible ; but the Jury have heard the objection, and will give what credit to the witness they think he deserves.

John M'Kay was then examined *in causa* : There were ten tenants in Ravigill, of whom he was one ; by the custom in Sutherland, the outgoing tenant retains his barn till he gets his crop threshed. There were ten barns in Ravigill ; eight were taken down, two left ; and there were three kilns, two of which were taken down and one left ; the custom is the same as to the kilns. The tenants lost a good deal of

their crop in consequence, because they were in the habit of putting most of it into the barns. Cross-examined—These barns were of feal and stone, and had some holes in them by way of windows and doors ; he is certain there were not five barns left. Witness took down his barn himself, as he preferred doing this to allowing Mr. Sellar take it down, which he said he would do, if not done by witness. On Saturday he heard of the allotments for the tenants being ready, and was to remove on the Tuesday, as Mr. Sellar would allow him to remain no longer. Witness did not leave his house till it was taken down on Thursday, on which day his wife, who was unwell, fell through the roof of the house. At this time Mr. Sellar was not present ; when witness saw him with the party, he thought that the law of the country was changed.

13th, Murdo M'Kay, in Rhinovie : The barn, house, and kiln in Ravigill, belonging to the witness were thrown down in June, 1815 ; there were eight or nine barns, and as many houses demolished in Ravigill ; one kiln and two barns were left at desire of Mr. Sellar. John M'Kay, Hugh M'Kay, Charles Gordon, Adam M'Kay, Donald M'Kay, as well as the witness, sustained loss in their crops, in consequence of the want of their barns. By the custom of the country, these barns belong to the outgoing tenant till he thresh out his crop.

Some other witnesses were called, but rejected in respect that they were erroneously described in the list served on the panel.

14th, The Reverend David M'Kenzie, minister of Farr, identified the notice given to the tenants in Strathnaver, at the set in December, 1813, founded on in the indictment. Witness explained it to the people in Gaelic. He was employed by William Gordon to write Mr. Young about the allotments for the tenantry, but does not know whether this was before or after the term day. Mr. Sellar was in company with the witness in the house of Robert Gordon of Langdale ; they talked of the tenants, and Mr. Sellar simply observed they were dilatory in removing, to which the witness rejoined that the allotments were not ready on the very day of Whitsunday, and this prevented them from removing.

15th, William Young, Esq., identified the notice to the tenants in Strathnaver, which was explained to the people, at the set in December, 1813, in Gaelic, by the preceding witness. It was the intention of the witness to have had the allotments ready early in spring, as mentioned in the notice, but the plan of proceeding is this : The number of the tenants to be removed is first ascertained before the allotments are

laid off, and then a land-surveyor is employed to examine the ground. Accordingly, a surveyor arrived about the 20th of April, and he intended immediately to set out for Strathnaver, but that gentleman received a letter, stating that his wife was unwell, and requesting that he would return home; to this the witness consented, and the surveyor was to come back to Sutherland as soon as he could. On the 20th of May he did return, and went to Strathnaver. He was employed till the 31st of May, in laying off the allotments. By the 4th of June every thing was ready for the reception of the people, and between the 31st of May and that day, they were all present, and every man informed of his allotment. The houses were to be built by the tenants themselves, but there were barns to which the people might have removed if they chose, and these barns were at least as good as the houses which they left. Cross-examined—Witness knows of no tenant who got notice to remove who was disappointed. There were twenty-seven removed at Whitsunday, 1814, and there were allotments for every person, and 123 barns and byres into which the people might have gone. Some of them, particularly Hugh Grant, George M'Leod, and John M'Kay refused allotments, and Chisholm, the tinker, got none, because, for two years back complaints had been made against him as a worthless character. By the Court—The new allotments were so near the places from which the tenants were removed, that they might easily have carried away their corn; but they had no right to take away the straw, as it belonged to the incoming tenant.

Here the notice to the tenants in Strathnaver was read by the clerk, as follows :—

“NOTICE is hereby given to the tenants of Strathnaver, and others on the old estate of Sutherland, whose farms are to be set at Golspie this day.

“That Lord and Lady Stafford have directed that all the grounds from Curnachy on the north, and Dunvieddar on the south side of the river, down to its mouth, including Swordly and Kirkatomy, with a sufficient quantity of pasture, is to be lotted out among them, and in which every person of good character will be accommodated.

“And such of the tenants on both sides the water of Brora as may be dispossessed, will also get allotments on the south or north sides of the water of Brora, which includes Knockarthur, Scotlary, and others down to Ledmore plantation on the south, and Askorlmore, Askorlbeag, and other low lands on the north side of the Brora water; *and these lands*

*will be lotted off early in spring, so that the tenants may enter to possession at Whitsunday first.*

(Signed) "WILLIAM YOUNG."  
 GOLSPIE INN, }  
*Dec. 5, 1813.* }

GOLSPIE INN, *December 15, 1813*

The within, after having been read by Mr. Young, in presence of the people, was explained to them, in Gaelic, by me.

(Signed) DAVID M'KENZIE.

The Counsel for Mr. Sellar having admitted that the declaration by that gentleman, in presence of the Sheriff-Substitute, was freely and voluntarily emitted, it was read as follows :—

*At Dornoch, the 31st day of May, 1815, and within the Ordinary Court-Room there,*

In presence of ROBERT M'KID, Esq., Sheriff-Substitute of the Shire of Sutherland.

Compeared Mr. Patrick Sellar, present prisoner in the tolbooth of Dornoch, who being judicially examined and interrogated, declares, That, for about four years and a half past the declarant has acted as under factor for the Marquis and Marchioness of Stafford ;\* that is, the declarant has a factory for collection of the rents, and for carrying into effect the arrangements made by William Young, Esq., of Inverugie, upon the noble proprietors' estate in Sutherland, and particularly the department of outputting and inputting tenants, in fulfilment of such arrangements. That the declarant's place of residence is at Culmally, in the parish of Golspie, and shire aforesaid. Declares, That he knows a set of certain parts of his constituents' lands were made at Golspie, upon the 15th day of December, 1813, in consequence of previous advertisements ; that the declarant was present at the said set, at least during the greater part of the time, and he knows that a paper was read by Mr. Young to those assembled upon the occasion, and also explained in the Gaelic language by Mr. David M'Kenzie. That the import of the said paper was, that Mr. Young was to lay off allotments in the lower part of the country for the removed tenants. That about the beginning of harvest, 1813, the declarant, who farms about 400 arable

\* N.B.—This must have crept in by mistake. Mr. Sellar is *factor*, and never was "under factor over Lady Stafford's estates".

acres in the low country, in the parish of Golspie, mentioned to his constituents, that it would be of much importance to him to possess a pasturage farm to be wrought in connection with it. That Lord and Lady Stafford directed the declarant to offer at the set for any farm he chose a few pounds beyond the highest offerer ; and they directed Mr. Young, on his so offering, to prefer him. That the declarant accordingly made offer for the farms of Rhiloisk and Rossal, near the sources of the rivers Naver and the Helmsdale, in the parishes of Kildonan and Farr. That this farm was offered for by the declarant over the previous biddings of Mr. John Paterson in Sandside, and was taken out by the declarant on the arrangement fixed by his constituents. That it comprehended the places of Rhiloisk, Rossal, Rhiphail, Ravigill, Rhimsdale, Garvault, and Truderskaig. That Mr. Young asked the declarant, after the farm had been set to him, if he would allow any of the people to remain for a season upon the grounds. That the declarant readily answered he would, and he informed the people who were present at the inn, that he would allow as many of them remain on the farm for one year as he possibly could. That it was not in his power then to specify who were to remain, and who were to be removed into allotments, but he would meet them at the counting, and be able to explain fully to them upon that occasion. That the counting happened on the 15th of January, 1814, at the house of John Turnbull, shepherd in Suisgill, in the parish of Kildonan ; and the declarant, in consequence of a previous notice to the inhabitants to meet him and pay the rents, met, among others, the people on his own farm, and he selected those who should remain, made a bargain with them, as he believes, rather under a fair proportion of his average rent on the duration of his lease ; and he explained, that to the remainder of the ground, he must have access at the Whitsunday following, as his flocks and shepherds would then be in preparation. That at the counting, the declarant expressed a wish that the tenantry would allow him to burn part of the heath in the ensuing spring : he has always understood, that after the month of March comes in, the old heath is of very little use until burnt. That the Alpine herbage, mixed among the heath, comes up in a few days after burning ; and in the latter end of March, April, and May, is, after burning, a most valuable pasturage. That the declarant, therefore, conceived, and he believes the people were of the same opinion, that the allowance of burning part of the heath was no great favour, and they readily consented to it. That the declarant believes that John Dryden, his principal shepherd, was present upon this occasion ; and he understands that Dryden, in the



month of March ensuing, burnt several parts of the muir pasturage belonging to the farm. Declares, that the declarant was not personally on the farm from the said month of December until the term of Whitsunday; that he perambulated a considerable part of the farm after the Whitsunday, along with Dryden, who pointed out spots that he had burnt, and it was then full of herbage, and the inhabitants' cattle and horses were pasturing upon it; some hundreds of cattle and horses being kept by the tenants on the declarant's ground from the said term of Whitsunday up to the time when possession was got by the strength of the Sheriff's warrant. Interrogated, Whether the declarant gave orders, either to the said John Dryden or to John M'Kay, another of his shepherds, to burn the spots of heather before declared to? Declares, in answer, that John M'Kay was a young lad under the direction of Dryden; and the declarant rather thinks that he had no conversation with him on the subject; that if Dryden asked the declarant any questions on the subject, he certainly must have told him to burn what was proper, as the inhabitants had already consented to the measure; and he knows it was no injury, but a benefit to them; and it was besides a small portion of the flows that was necessary to be burnt for the purpose of the shepherds. That although the declarant has every wish to answer explicitly to each interrogatory, he really cannot say that he recollects of any conversation he had with Dryden on the subject; but this he does frankly allow, that in so far as Dryden was the declarant's servant, the declarant is answerable for any damage he might thereby have done the people, if they are entitled to any damages. Declares, that he knows that regular processes of removing were brought at the instance of the proprietors against all the principal tenants; and the conclusions of the libels were, that the defenders should "compear before the Sheriff-depute, &c., on the 18th March and 4th April, to hear and see themselves decerned and ordained, by decret and sentence of the Sheriff-depute or his substitute, to flit and remove themselves, wives, bairns, families, servants, sub-tenants, cottars, dependents, and whole goods and gear, forth and from the possession of the said lands and others, at the term of removal after mentioned, viz., from the houses, gardens, grass, and mills, at the term of Whitsunday next, 1814, and from the arable lands under crop at the separation of crop 1814 from the ground:" That the declarant, as agent for the pursuers, called the actions regularly in court, and obtained decret of removing in terms of the libels. That in the beginning of the month of May the declarant extracted the decreets, and caused charge the defenders in terms of the decreets; that he thereafter obtained precepts of ejection,

and after waiting till about three weeks after the term, he was under the unpleasant necessity of putting the warrants into the hands of the officers of court, and employing them to make the premisses void and redd. And being asked who were the officers and party employed upon this occasion? Declares that he does not pointedly remember, but he believes they were Alexander Sutherland, in Backies, and Alexander M'Kenzie, Sheriff-officer in Rogart, and also Kenneth Murray, in Ironhill, as he thinks: Declares, That he knows that the officers, under these warrants, made void and redd, Rhiloisk, Rhiphail, Ravigill, Rhimsdale, and part of Garvault; the four former places were thereafter in the declarant's occupation, and the last in the occupation of Roderick M'Kay, whom the declarant left there, as he thought him the most decent man in it; and it was necessary, as he had the rent of it to pay at Martinmas, that he should be put into possession as near the term of Whitsunday as the declarant could. That there was a small part of Rhiloisk in the midst of a morass, occupied by a tinker, of the name of Chisholm, and he also was ejected, to make room for the people of Rossal and Truderskaig, in favour of whom the declarant had subset that part, and he was ejected on the 13th of June, to the best of the declarant's recollection. That all the people were removed, excepting some persons in Rhimsdale, who were represented to have sickness in their families, and some women in Ravigill. That it was the declarant's intention that the tinker in the upper part of Rhiloisk should be completely removed from his premisses, as he was represented by the people to the declarant, to be a vagrant, who had come there without any authority. That he had married, and lived in family with a second wife in the lifetime of the first, who had lately visited him, in company with some other tinkers, and that he was reputed a thief. Declares, That all the houses, with the exception of Rhiloisk House, now in the declarant's occupation, consisted of birch couples and roof, intermixed with a few posts of moss-fir filled up with turf. That at the removal of the tenants, the birch and other natural wood in the houses, is the property of the entering tenant, in respect they were cut in the natural woods on the property of the Marquis and Marchioness of Stafford; but if he wish the moss-fir, he must pay a value for it by comprisement, unless where the matter is regulated by a lease. That in all the other cases of the removings above noticed, excepting that of the tinker and a house in Rhimsdale, and another in Ravigill, that were necessary for the temporary accommodation of the declarant's shepherds, the declarant, the entering tenant, made the removing tenantry a present of the natural wood in the houses they had lately occupied, and allowed them a fort-

night, as he thinks, after the middle of June, for removing any part left behind them at the period of the ejections. That a few of the sub-tenants, who were to have entered to the place in the occupation of the tinker, went out there on purpose to bring in the woman he lived with into the Strath at the time of the ejection. That the declarant was not present at the first part of the ejection, but he arrived there on his way to the low country, in the afternoon ; and on his reaching the place, he found that the officers had already ejected the man's furniture, such as it was, and that the house was nearly unroofed, but that there was another small house fronting the east end of the dwelling-house ; that it was untouched, and that the tinker's wife was employed removing their things from the green into it. That the declarant mentioned to the entering sub-tenants that they had better take the woman and her family, and such furniture as was there, into the Strath with them, but they informed him, that there was an aged person there who could not then be removed such a distance ; that she was the mother of the tinker's wife, and it was necessary that this woman should be left there to assist her. Declares, that the declarant is not positive, but he understands that the old woman had been removed by this time, by her daughter, into the small house above mentioned, to be opposite the east end of the dwelling-house ; and his reason for thinking so is, that he did not see her at all, and the dwelling-house or hut was by this time unroofed. That the declarant asked the tinker if he would make off with himself, but he indicated that he would not do so ; and as he was considered to be a lawless man, who would rebuild his house, and settle again there, in the face of the Sheriff's decret of removing, the declarant thought it proper to purchase the moss-fir part ; and all the timber being thus the property of the entering tenant, that he would prevail on the sub-tenants above mentioned to remove it along with him: That for the purpose of appreciating the moss timber, the officer's party and people separated it from the other timber, and having valued it a few shillings, the declarant paid the amount to the tinker before all present, and the sub-tenants took a part of it. That there was a very considerable part, however, which they left, and the declarant considering it to be his property ; ordered the party to collect it in the place, and to burn it along with the parcel of turf which had been thrown off the house, in the demolishing of it. And thereafter, the declarant proceeded on his journey, leaving the tinker's family in the small house into which they had removed. That the entering sub-tenants promised to the declarant that they would remove the woman and her family into Strathnaver, as soon as her mother might be better ; but the declarant has afterwards

heard, that the tinker presently set to work to find more timber, erected a new hut equal to that which was demolished, and that he lives there at this day; that the name of the place, the declarant has heard, is Badyloskin, and it is a pendicle of Rhiloisk. Interrogated, If the declarant knows there was a kiln and barn at Badyloskin, and that they were set fire to separately from the dwelling-house? Declares, That there was a turf hut opposite, nearly to the west end of the house; that the declarant supposes it may have been the man's barn; that the moss-fir was taken out of it, in like manner as out of the other house, and it was valued over to, and paid for by the declarant. And thereafter the wood of it was burnt; but the declarant does not recollect if it was mixed with the wood of the dwelling-house, or separately by itself. Interrogated, If he knows there was a small field of growing corn burnt at the back of Chisholm's house, upon the occasion referred to? Declares, That he remembers perfectly there was a small field of corn near the house,—it might have been about a fourth-part of an acre—and at that season of the year, and in that climate, was at that time perhaps from an inch and a half to three inches high. That it was not burnt upon that occasion, nor was any corn burnt, to the declarant's knowledge. Declares, that along the one side of this field, there was a small broken fence of the moss turf. That the fire communicated for a yard or two from the wood, along this fence, and the declarant assisted at putting it out; and it was extinguished. Interrogated, If the declarant knows, or was informed by any person, that there were £3 sterling in bank notes, deposited in a hole in one of the gables of Chisholm's house, and that they had been burnt along with the rest? Declares, That the declarant knows that the wood was fairly separated from the house, and the effects of the former occupants to all appearance fully removed from the premises, before the comprisement of the timber, and the burning of it, above declared to. That the declarant does not believe that there was ten shillings worth of property of any sort, either in or out of the house at any time. That the furniture consisted of birch boughs, made rudely with an axe or knife, into the form of stools, &c., and he apprehends there was no money in it. That after the ignorant people had been stimulated by artful and designing men to complain of oppression, the declarant heard that it was reported by the tinker or his wife, that there had been money burnt in the fire; but he put no dependence on their veracity. Interrogated, If he knows the name of William Chisholm was in any of the precepts of ejection, which the Sheriff-officer had in his possession upon the occasion before declared to? Declares, That the officers were possessed of pre-



cepts of ejection against the tenants of every place in Strathnáver. That the declarant does not at present recollect if the name of William Chisholm was in the precept or not ; but if it was not, then the names of the principal tenants of the grounds were ; and to the best of the declarant's recollection, it is a pendicle of Rhiloisk, on the wadset of Langdale ; and all the tenants on the wadset were regularly warned out, and their names contained in the precepts before declared to. Interrogated, Whether the declarant had any conversation with Chisholm at the Mission-house of Farr, called Achness, in presence of Mr. Gordon of Langdale, and Mr. Gordon of Bracachy, upon the Sunday immediately preceding the day on which the declarant went to Chisholm's house ? Declares, That the declarant attended a Divine worship at the Mission-house of Achness, on a Sunday preceding the ejection of Chisholm ; That he was in company with the Mr. Gordons above alluded to ; and being informed among others, by them that Chisholm was of bad repute, he asked them to point him out among the people. That on his being pointed out, the declarant intimated to him, that he was not to be allowed to remain on the declarant's farm ; and that the officers would certainly throw him out if he did not peaceably remove of his own accord ; but he does not recollect that the Mr. Gordons were present when he made this intimation, although it is very possible they might have been so. Interrogated, If the declarant ordered the officers and party to demolish a mill at Rhimsdale, upon the occasion before declared to ? Declares, That the declarant did not know that there had been any mill at Rhimsdale ; there is little or no corn land near it, as it lies in the middle of a very wide hill ; but his directions to the officers were, that they should lawfully eject the tenants ; and that after ejecting, they should remove the roof of every house in Rhimsdale, excepting those occupied by the families wherein sickness was mentioned to have been, and the barns necessary for the harvesting of the little crop. Declares, That the declarant was not present at the ejections at Rhimsdale, as he understands they happened on the 14th or 15th day of June ; and the declarant was under the necessity of leaving them on the 13th, as his duty called him to other parts of the estate. Interrogated, If the declarant was along with the officers and party at the towns of Garvault, Ravigill, Rhiphail, and Rhiloisk, when the precepts of ejection were put in execution ? Declares, That after repeated promises by the tenants, that they would peaceably obey the Sheriff's decret, and after they repeatedly failed in implementing their promises, the declarant was under the necessity, as already mentioned, of directing the officers to execute



their warrants. That he was present at the first part of the ejections; but after they had ejected from a few houses, and had unroofed these, the tenants of the others in the neighbourhood yielded obedience to the warrant, and removed of themselves. That it was impossible for the declarant to remain always with the officers; but his directions were, that they should eject from the houses where the inhabitants were not yielding obedience to the decreets only, or were making an appearance of removing, in order to put off the time, and weary out the declarant and the party. Interrogated, If the declarant's orders to the officers and party, also, were not to throw down the couples and timber of the different dwelling-houses, barns, kilns, and sheep-cots, at the respective places before mentioned? Declares, That the declarant directed the officers (where the tenants did not obey the decreets by removing of themselves, as they ought to have done), to remove the tenant's property and effects from the premises; and thereafter unroof the huts, to prevent them from retaking possession after the declarant should leave that part of the country; but although by law and the force of the warrants, he considered himself entitled to remove from, and take possession, as entering tenant, of all the houses or huts at the term of Whitsunday, he left the removed tenants in possession of a barn each, as he believes, for every seven acres of arable land under crop; and as already mentioned, he made them a present of all the timber of the houses, excepting Rhiloisk House, one turf hut on Ravigill, one on Rhimsdale, and the tinker's on Badyloskin, before mentioned. Interrogated, If the declarant remembers to have seen any of his party, or his shepherd, John Dryden, forcibly carry away from the house of a Barbara M'Kay, at Ravigill, the door of her dwelling-house, with lock, hinges, and door posts? Declares, That he has no recollection of any such circumstance, nor did he see any locks or hinges, unless some made of wood among the huts. All which he declares to be truth.

The Advocate-Depute here declared the proof for the prosecution concluded.

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## EVIDENCE IN EXCULPATION.

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IT was stated on the part of the panel, that Mr. Sellar meant to have adduced, as witnesses to his character, Sir George Abercromby of Birkenbog, baronet, Sheriff-Depute of the county of Elgin and Nairn ; George Fenton, Esq., Sheriff-Substitute of that county ; and James Brodie, Esq. of Brodie ; but that these gentlemen were unfortunately unable to attend from bad health ; and regular medical certificates of the inability of Messrs. Brodie and Fenton had been transmitted. It was therefore proposed to read letters which these three gentlemen had written, containing their opinion of Mr. Sellar's character for humanity, which, although not regular evidence, were usually received in the practice of the Criminal Court, in relation to points of character. To this proposal the Advocate-Depute made no objection ; and the following letters were then read :—

LETTER—JAMES BRODIE, Esq. of Brodie, to Mr. JAMES ROBERTSON, Writer to the Signet.

BRODIE HOUSE, *20th April*, 1816.

SIR,—Having received a citation, at the instance of your client, Mr. Patrick Sellar, as a witness on his trial, I am truly sorry that my state of health is such as puts it totally out of my power to obey it ; and I have therefore been obliged to send a certificate for that purpose.

As, I presume, the only motive for calling on me, must have been to bear witness to his character, I sincerely regret that I am prevented from doing him that act of justice. I have known him intimately from his infancy ; and he was for many years, while he resided in this country, my man-of-business. I always considered him a person of the strictest integrity and humanity, incapable of being even accessory to any cruel or oppressive action. I am, &c.

LETTER—SIR GEORGE ABERCROMBY of Birkenbog, Bart., to  
JAMES GORDON, Esq.

FORGLEN HOUSE, *21st April*, 1816.

MY DEAR SIR,

I received your letter of the 19th yesterday. Indisposition prevents me from attending the Circuit Court at Inverness at present. This I very much regret, on account of the circumstance you mention, as I should have been glad to have given my testimony in person to the good opinion I have always entertained of Mr. Sellar. Mr. Sellar I have known from a boy. He acted as an agent before the Sheriff court of Elgin for several years, very much to my satisfaction, and was appointed procurator-fiscal. I have always thought him a young man of great humanity, and I think him incapable of being guilty of the charges brought against him, and trust, upon trial, they will turn out to be unfounded, and put a stop to that clamour which was so disagreeable. I am, with great regard,

My dear Sir,

Your most obedient Servant,

GEORGE ABERCROMBY.

LETTER—GEORGE FENTON, Esq., to Mr. GORDON.

ELGIN, *20th April*, 1816.

SIR,—As I understand you are employed as counsel for Mr. Patrick Sellar, indicted to stand trial at the ensuing Circuit Court of Justiciary at Inverness, and I having got a citation as an exculpatory witness, which, I presume, is for the purpose of bearing testimony to Mr. Sellar's character. I have unfortunately been unwell for some time past, that prevents my attendance, as will appear, from a certificate I have transmitted by the Sheriff-Substitute of the county of Nairn, or otherwise I would readily have obeyed the summons, and done that justice to his good character I consider him entitled to. I have known Mr. Sellar from a boy; for many years an agent before the Sheriff-court, where I presided as Sheriff-Substitute, and I never, in the course of his practice, knew him to do an oppressive act, or one likely to do so, and I have always known him to be a man of sympathy, feeling, and humanity. While in this county, he was considered as a most respect-

able agent, employed by his Grace the Duke of Gordon, the family of Grant, now the Earl of Seafield, the Earl of Moray, and the greater part of the landed proprietors and most respectable inhabitants of this county.

I therefore consider it due to Mr. Sellar's character to communicate to you my sentiments of him, as I cannot personally attend myself, and I have the honour to be,

Sir,

Your most obedient Servant,

GEO. FENTON.

Thereafter the following witnesses were called and sworn.

1st, Thomas Gilzean, Esq., Sheriff-Substitute for the county of Inverness. Witness has known the panel from his boyhood. He has borne a most respectable character, and is known to witness to be of a humane disposition. Witness conceives him incapable of doing anything cruel or oppressive.

2nd, Archibald Dunbar of Northfield, Bart. Witness has known the panel from his infancy. He is a young man of respectable character, and of a good heart; and witness believes him to be incapable of doing a cruel or oppressive action.

The several decrees of removing, and warrants of ejection against the different tenants were then produced in evidence.

It was next stated on the part of the panel, that although it was understood from the Public Prosecutor that he had, among many other charges, deserted the second charge in the indictment, yet it was thought advisable to lead evidence in regard to the injury, charged in the indictment to have been sustained by Donald Monro in Garvault, as what passed on that occasion would afford a specimen to the Jury of what had been the actual conduct of the tenantry in general during these proceedings.

Lord Pitmilly observed, that he gave leave to the panel's counsel to bring forward evidence as to that charge in the libel, if they thought proper.

3rd, Robert Gunn, fox-hunter in Tongue. Witness knows Donald Monro in Garvault; remembers the removings at that place. They were executed on the 8th of June, and on the 26th and 27th May. Monro was in company with the witness, apparently in perfect health.

Witness saw him again on the 7th June at a fox-chase ; left him that day about sunset, and at that time witness saw nothing whatever the matter with him.

4th, John Dryden, shepherd in Rhiloisk. Witness saw Donald Monro in Garvault at a fox-chase on the 7th of June in good health, and on the 8th, witness saw him come out of the house in which he lived at Garvault, and Monro was apparently well and laughing.

5th, Duncan Ross, ground-officer of Farr. Witness was at Garvault at the removings in June ; knows Donald Monro. His mother said that he was sick, but when witness came up, he saw Monro leap out of bed with his clothes on, and in perfect health. Witness was present at the ejections. The warrant was first read, and then the furniture was removed from the house. Nothing was destroyed and no damage of any kind was sustained by the tenants. Mr. Sellar gave strict instructions to hurt nothing belonging to the people. He told the officer to do his duty, and after everything was out of the houses, the party, in the gentlest manner, took out the pins and let the couples fall. The people were all out at this time. Witness was at Rhimsdale, and a man having made application to Mr. Sellar for three persons who were sick, Mr. Sellar ordered the best end of the house to be reserved for them, and permitted them to remain. There was one barn left at Rhiloisk, three left at Rhiphail, three at Ravigill, two at Garvault, and one at Rhimsdale, and these were permitted to remain for a whole year.

6th, Andrew Ross, carpenter. Witness has been many years appraiser for the family of Sutherland. Remembers the removings in 1814 ; was employed by Mr. Sellar to comprise the value of the wood. The party went first to Garvault, and took out the furniture. Witness comprised the moss-fir, and after everything was out of the houses, they took out the pins, and let the couples down. The moss-fir was fairly comprised, and Mr. Sellar paid the people the value of it. The party went to Rhimsdale ; there only one house was taken down, and three houses, where there were said to be sick people, were allowed to remain. Mr. Sellar bought the moss-fir here also, and paid for it, and no objection was made. They next went to Rhiloisk, and comprised the houses and offices. Here also only one house was taken down, in the same manner as the rest. No injury was done to the furniture. They then proceeded to Rhiphail. Some of the people there were employed in taking down their own houses, and others promised to take them down



that day ; and, upon this, they left them to do so. Next they went to Ravigill, where they met Charles Gordon, who said that he would pay ten pounds, if the houses were not down next day. They did nothing here but comprised one of the houses for Mr. Sellar's shepherd. During all these removings, he knows of no injury done by Mr. Sellar, or by his orders ; saw no instance of cruelty, and no damage was done to the furniture. Value was allowed for the moss-fir, which, on an average, formed about the tenth part of the wood in the house, as, by the practice of the country, it belongs to the out-going tenant ; but nothing was given for the birch wood, as this belongs to the proprietor.

7th, Alexander Sutherland, in Backies of Golspie ; was a witness to the removings. The party met first at Badinloch ; they went to Garvauld ; the warrant was read, and the furniture then turned out, no injury being done to it. They next went to Rhiloisk, and proceeded in the same manner there ; they received orders not to do any injury ; they then went to Rhimsdale. Mr. Sellar said, that he had a letter from the minister of Farr, stating, that there were sick people in that place, and therefore that they must not proceed in the ejections. Then they went to Badinloskin ; they arrived there on the Monday forenoon. Chisholm had taken part of the divots off his house ; witness saw an old woman ; she was lying on the floor of the byre on a shake-down, and she had been removed from the house-end to the byre-end ; there was a fire close to her on the floor of the byre. Mr. Sellar had not arrived at this time, having stopped with his shepherd. On his arrival near the place, he asked witness if he had seen an old woman, and witness answered she was in the bothy. Neither Chisholm's house nor byre were set fire to till a considerable time after the old woman had been removed. The bothy was thirty yards or so distant from the house and byre. Witness heard no cruel expressions from Mr. Sellar as to the old woman. The house, barn, &c., were worth about twenty shillings. Fire was not put to the house till after the comprisement had been made. Cross-examined—Witness saw the old woman brought out by her friends, and heard her utter some cry. Part of the house was taken down before the woman was brought out, but this was done by Chisholm. The house end was taken down by the party before the woman removed from the byre-end. Mr. Sellar was at this time at a distance. Chisholm's furniture was all out before the fire began, and he said nothing of bank notes. Before the woman was brought out, there was a smoke, but this seemed to arise from the divots falling from the roof on the fire. Some growing corn, at the back of the house,

was blackened accidentally by the fire. By the Court—Witness did not observe that the blanket which was round Margaret M'Kay was burnt, though he saw it when she was passing.

8th, John Burns, farmer in Auchavurrisdale, in Caithness. Witness was at Badinloskin on the day of Chisholm's ejection, having accompanied Mr. Sellar there ; arrived in the forenoon. When they came in sight of Chisholm's house, part of it was already unroofed ; they stopped at about seventy yards' distance from the house. When Mr. Sellar came here, the people met him, and asked him not to destroy the house ; Mr. Sellar answered, that he could not avoid doing so, for if he did, the tinker would not go away. He sent for the tinker and spoke to him, and Mr. Sellar said he would turn him out, pile up the wood, and burn it. The officer then came up, and Mr. Sellar desired him to go on with his business. The people said that they could not carry away an old woman who was there. Mr. Sellar advised them to take her to Rossal ; he said there was a truck, and they might easily make a bed of it for her, and take her out. The people, after this, observed, that there was fire coming from the house. Mr. Sellar, upon this, started up ; he desired the people immediately to take out the fir-wood, for it belonged to the tinker. The men said that the woman had been previously removed to a small house. The woman was removed before Mr. Sellar and witness came up, and before Sellar ordered fire to be set to the house. There was no complaint of furniture, or bank notes, being burnt that day.

9th, James Fraser, residing at Golspie ; was a witness to the removings ; came to Badinloskin about one o'clock ; the party came from Langdale, and met Mr. Sellar at Badinloskin. Chisholm was unroofing his house when the witness came ; Mr. Sellar came about an hour after ; when about sixty yards distant from the house, he called for the officer, and gave orders that the furniture should be removed with as little damage as possible ; he then paid for the moss-fir. Before they arrived, witness heard that there was an old woman there, and he himself saw her removed by her daughter-in-law to a small house at a little distance ; this was before Mr. Sellar came up. Witness saw no burning then, the old woman was on a shake-down in the byre-end of the house ; she was removed, and all the furniture also, before the burning took place ; there was no unnecessary cruelty ; the tinker took the money for the moss-fir, and made no objection. The value of the house, &c., was nearer twenty shillings than twenty pounds. Witness

saw Donald M'Beath at Rhimsdale ; he was affected with a sore eye ; Mr. Sellar said he would allow the dwelling end of his house to remain, but would destroy the byre to prevent the people from keeping cattle there. Cross-examined—The tenants from Rossal were brought up by Mr. Sellar to assist in removing the people. Part of the house was taken down before the woman was removed ; the witness afterwards assisted in setting fire to the house, as Mr. Sellar gave orders to do so.

It was then represented for the panel, that a vast number of additional witnesses in exculpation were in attendance ; but that the Counsel conceived that it would be altogether superfluous to detain the Court and Jury longer.

MR. DRUMMOND addressing the Jury on the part of the Crown, stated, that he gave up all the charges except the one which regarded the ejections from the barns, and that of real injury in the case of the old woman at Badinloskin. He certainly did not think the evidence in this last case was sufficient to establish culpable homicide ; but he argued, that the circumstances proved were sufficient to authorise the Jury in finding a verdict of guilty to the extent of an injury, as she had been removed at the risk of her life, which he maintained to be contrary to law. As to the barns, he contended that the conduct of Mr. Sellar was irregular and illegal, and consequently oppressive, the outgoing tenants being entitled, by the custom of Sutherland, to retain them as long as the arable land.

MR. GORDON addressed the Jury on the part of the panel, and replied to the arguments used on behalf of the prosecution. He entered at great length into the history and objects of the prosecution ; the preconcerted plan on which certain persons had instigated the people of Strathnaver to complain at first, and to persist afterwards ; the views they entertained of successfully opposing the improvements of Sutherland, by affecting the noble persons to whom

the property belonged, through the sides of Mr. Sellar, as a convenient medium of succeeding ; the disgraceful measures to which these persons had resorted, with a view to affect the channels of justice, the impartiality of Jurymen, and the purity of evidence. He attacked the measures and conduct of Mr. MacKid in the most pointed terms ; exposed the characters of the evidence of Chisholm and others, and dwelt on the clear evidence of the total innocence of Mr. Sellar, and on the points of law which applied to the particular charges as criminal charges, at considerable length, and with reference to various law authorities ; and finally, concluded by maintaining to the Jury, that this was not merely the trial of Mr. Sellar, but in truth, a conflict between the law of the land and a resistance to that law : That the question at issue involved the future fate and progress of agricultural, and even moral improvements, in the county of Sutherland ; that (though certainly not so intended by the Public Prosecutor, whose conduct throughout has been candid, correct, and liberal), it was nevertheless, in substance, and in fact, a trial of strength between the abettors of anarchy and misrule, and the magistracy, as well as the laws of this country.

LORD PITMILLY, after having stated the law as applicable to this case, summed up the evidence in a very clear and able manner. His Lordship stated, that it was unnecessary for the Jury to consider any of the charges, excepting the one in regard to the old woman at Badinloskin. As to the first, there could be no doubt of the practice in the country, of retaining these barns till the crop should be threshed out ; neither could it be doubted, that Mr. Sellar had not left the whole of the barns for the use of the out-going tenants, and in consequence of this, the tenants suffered

damage. But *in point of law*, as the Court of Session had decided in a similar question, Mr. Sellar was not bound by any such practice, but was entitled to proceed in the ejections. In regard to the injury charged to have been done to Margaret MacKay, his Lordship directed the attention of the Jury to the evidence of Chisholm. This witness, although contradicted in some particulars by his wife, was confirmed by John MacKay, whose testimony his Lordship also laid before them. On the other hand, he brought under their view, the evidence of Sutherland, Fraser, and Burns, and stated, that it was the duty of the Jury to balance betwixt these two sets of witnesses. His Lordship also said, that if the Jury were at all at a loss on this part of the case, they ought to take into view the character of the accused; for this was always of importance in balancing contradictory testimony. Now here there was, in the *first* place, real evidence, from the conduct of Mr. Sellar, in regard to the sick, for this, in several instances, had been proved to be most humane. And, *2ndly*, there were the letters of Sir George Abercromby, Mr. Brodie, and Mr. Fenton, which, *although not evidence*, must have some weight with the Jury; and there were the testimonies of Mr. Gilzean and Sir Archibald Dunbar—all establishing Mr. Sellar's humanity of disposition.

The Jury having retired for a quarter of an hour, returned a *viva voce* verdict, unanimously finding Mr. Sellar NOT GUILTY.

Lord Pitmilley observed that his opinion completely concurred with that of the Jury, and in dismissing them after so long a trial, he was happy to say they had paid the most patient attention to the case, and had returned a verdict satisfactory to the Court.

The verdict having been recorded,



The Advocate-Depute declared that he thought it fair to the panel, and that it would be satisfactory to the Jury, to state his conviction, that if those witnesses who were rejected on account of errors in their designations, had been examined, the result of the trial would have been the same.

Lord Pitmilley then addressed Mr. Sellar.

His Lordship said, "Mr. Sellar, it is now my duty to dismiss you from the bar ; and you have the satisfaction of thinking, that you are discharged by the unanimous opinion of the Jury and the Court. I am sure that, although your feelings must have been agitated, you cannot regret that this trial took place, and I am hopeful it will have due effect on the minds of the country, which have been so much, and so improperly agitated."

The Court then pronounced an interlocutor, in respect of the verdict of the assize, assoilzieing the panel *simpliciter*, and dismissing him from the bar.

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